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PART X

FEDERAL ENERGY REGULATORY COMMISSION

THE NATURAL GAS POLICY ACT OF 1978

Proposed Regulations

[6740-02-C]

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

[18 CFR Parts 2, 157, 270, 271, 273, 274, 275, 276, 284]

[Docket No. RM79-3]

REGULATIONS IMPLEMENTING THE NATURAL GAS POLICY ACT OF 1978

AGENCY: Federal Energy Regulatory Commission

ACTION: Notice of Proposed Rulemaking

SUMMARY: The Natural Gas Policy Act of 1978 (NGPA), enacted November 9, 1978, takes effect with respect to certain first sales of natural gas delivered on or after December 1, 1978. The new statutory provisions relating to pricing of natural gas and other issues must, therefore, be implemented by regulation by that date. These proposed implementing regulations are being issued for a brief public comment period prior to promulgation of interim regulations. The Commission will then receive comments on the interim regulations for 60 days and will revise the interim regulations as appropriate.

DATE: Written comments by November 20, 1978.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., N. E., Washington, D.C. 20426, (Reference Docket No. RM79-3).

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On November 9, 1978, the Natural Gas Policy Act of 1978 (NGPA) was signed into law. By passage of the NGPA, Congress has mandated a new legislative framework for the regulation of most facets of the natural gas industry. The new law affects sales, transmission and distribution of natural gas. The previously controlling federal regulatory statute, the Natural Gas Act (NGA) has in many respects been limited, replaced or superseded by the NGPA.

A primary effect of the NGPA is the substitution of a series of specific statutory maximum price levels applicable to discrete types of "first sales" of natural gas for the previously established system of price regulation of interstate sales of natural gas which had been grounded in a cost-based methodology. An important distinction between producer regulation under the NGA and the NGPA is the expansion of the Federal Energy Regulatory Commission's (Commission) jurisdictional scope to encompass not only sales made in interstate but in intrastate commerce as well. Under the NGPA, all first sales of natural gas are controlled by the maximum statutory ceiling rates and as a result, it is unlawful for any person to sell natural gas at a price in excess of the statutory maximum regardless of whether the sale occurs in the inter- or intrastate market.

The Commission wishes to call specific attention to the provisions of section 101(b)(g) of the NGPA. The Congress, by that provision, emphasizes and makes clear that the maximum lawful prices under the NGPA are ceiling prices and do not supersede or nullify the effectiveness of any contractual agreement to pay a lower price. Therefore, the Commission cautions producers not to assume entitlement to any NGPA ceiling price which is higher than their contract prices.

The Commission is directed to administer essentially all of the NGPA and is authorized to perform any and all acts and to prescribe and issue such rules and orders as it finds necessary or appropriate to carry out its functions

under the NGPA. The proposed regulations, contained in this notice, mark the first step in carrying out the basic responsibilities for implementation and administration of the Act and provide a mechanism for transition from the NGA regulating regime to the NGPA scheme.

The NGPA is divided into six titles:

I. Pricing
   A. Price Controls Applicable to Sales of Natural Gas
   B. Decontrol of Certain Natural Gas Prices
II. Incremental Pricing
III. Additional Authorities and Requirements
   A. Emergency Authorities
   B. Other Authorities and Requirements
IV. Natural Gas Curtailment Policies
V. Administration, Enforcement, and Review
VI. Coordination with the Natural Gas Act, Effect on State Laws

The regulations proposed here do not implement all titles under the NGPA. Rather, the regulations propose to deal with those areas demanding the most expeditious treatment.

This first group of regulations is designed to set in motion the new scheme for pricing of first sales of natural

gas and to provide mechanisms for implementation of provisions of the NGPA covering certain arrangements for transportation of natural gas. However, before setting out in detail a full description of the specific regulations proposed, a summary of the most salient features of the NGPA, the effect on regulation under the NGA, and a capsule description of the implementing regulations and corollary modifications of regulations under the NGA, may be useful.

THE LEGISLATIVE SCHEME OF THE NGPA

The nature and scope of Commission regulation of producer sales under the NGPA has been substantially transformed from utility-type regulation of a limited market to what is essentially price regulation of an entire national market. Under the scheme set up by the NGPA, there exist two major categories of first sales: those requiring a prior determination of eligibility to be made by a jurisdictional federal or state agency before collection of the maximum lawful price and those not explicitly requiring such a determination. A decision as to whether a first sale falls into a category requiring a determination is fundamental. A decision to seek a determination triggers quite

different regulatory consequences than an opposite conclusion.

Although the Commission may be called upon to return to the cost-based, just and reasonable methodology within the meaning of the NGA in establishing rates in excess of the NGPA ceiling prices, the basic administration of the pricing provisions of the NGPA will be undertaken from an entirely different perspective. The Commission will no longer inquire into producer costs or set permissible rates of return for producers. Instead, the Commission's focus will center on whether geological information, production history, field records, prior contractual relationships and information of a similar nature support the categorization for pricing purposes claimed by producers.

Another crucial factor in anticipating what regulatory treatment will be accorded producer sales of natural gas is whether gas is "committed or dedicated" for purposes of NGA regulation. The limitations on NGA regulation as a result of enactment of the NGPA will be addressed in another section of this preamble. However, the distinction between gas which is deemed to be subject to continuing regulation under the Natural Gas Act and gas which falls solely within the

NGPA regulatory format is significant and affects both pricing and non-pricing regulation of producer matters.

For categories of gas requiring a prior determination by a federal or state agency, the Commission's function is more in the nature of an appellate body, reviewing, on a substantial evidence basis, the factual determinations of the appropriate jurisdictional agency with the right of disapproval in the event the initial determination is not adequately substantiated. The Commission rules reflect this role and prescribe the basic and minimum factual foundation necessary to meet its review responsibilities without directly interposing the Commission into the procedural functioning of the jurisdictional agency. The review process of initial determinations begins when notice is received of a jurisdictional agency's determination with the appropriate supporting material specified in Part 274 of the proposed regulations. In the absence of a reversal, the determination of the jurisdictional agency becomes final and no longer subject to review unless based on any untrue statement of material fact or upon any omission of material fact which omission was misleading.

Categories of first sales explicitly requiring that a determination as to qualification to collect the maximum lawful price be made by either a jurisdictional federal or state agency are:

- Section 102 which sets a maximum lawful price for first sales of new natural gas (gas produced from a new lease on the Outer Continental Shelf (OCS) or certain new onshore wells) and gas produced from any old OCS lease which was from a reservoir discovered after July 27, 1976;
- Section 103 which sets a maximum price for first sales of new onshore production wells;
- Section 107 which sets a maximum lawful price for first sales of high cost natural gas including gas produced from geopressurized brine, coal, seams, DeVonian shale or gas produced under other conditions the FERC determines to present "extraordinary"risks or costs; and
- Section 108 which sets the maximum lawful price for first sales of stripper well natural gas.

An essential element in the regulatory system established with respect to categories requiring a prior determination

is the provision for interim collection procedures by producers awaiting a final determination or the outcome of a review of such determination. The Commission has a concomitant power to require refunds from the producer if the gas eventually qualifies for a lower price. Section 503(e) sets out this collection and refunding procedure.

Part 273 of the regulations states the prerequisites for interim collection. First, the Commission has established a "transitional rule" to permit the collection by producers of the section 109 price if a producer files for a determination by March 1, 1979. Additional rules are established for interim collection pending and following a state or federal agency determination.

Those first sales of natural gas not requiring a prior determination to be made by a jurisdictional federal or state agency are tied to previously existing contractually set prices or price levels established by the Federal Power Commission or this Commission. First sales not requiring a prior determination under the NGPA are:

- Section 104 which incorporates by reference the just and reasonable rates establishes under the NGA for first sales of gas committed or dedicated to

interstate commerce on the day before the date of enactment of the NGPA;

- Section 105 which establishes maximum lawful prices for first sales under existing contracts of natural gas not previously committed or dedicated to interstate commerce; and
- Section 106 which establishes maximum lawful prices for first sales under interstate and intrastate rollover contracts;
- Section 109 which establishes the maximum lawful price for first sales of natural gas from the Prudhoe Bay in Alaska and categories of gas not otherwise covered by other sections of the NGPA.

The Commission has general administrative and enforcement authority under the NGPA and the NGA to order refunds in cases where the maximum lawful price level has been improperly exceeded.

EFFECT OF THE NGPA UPON CONTINUED NGA REGULATION

As stated previously, natural gas which remains committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA or which is not specifically

exempted from the jurisdictional consequences of commitment or dedication by the NGPA, remains subject to all the non-price regulatory requirements of the NGA. An important aspect of continued NGA regulation is the requirement that a producer file an abandonment application with the FERC pursuant to section 7(b) of the NGA before terminating service to the interstate market or before abandonment of facilities used to render interstate service. Additionally, although price regulation of first sales by producers of gas committed or dedicated is now governed by the NGPA, sections 104 and 106(a) are grounded in previously established rates under the NGA. As a result, producers wishing to establish their right to collect under these sections will be required to make a filing under their rate schedules under the NGA. On November 16, 1978, the Commission intends to amend its previously existing filing requirements to provide new procedures governing these rate increase filings.

If gas is not committed or dedicated to interstate commerce as defined in section 2(18) or is exempted from the jurisdiction of the NGA under section 601(a)(1)(B) as high cost natural gas, new natural gas, or natural gas produced from any new onshore production well, the prior framework of

utility-type regulation under the NGA no longer applies.

If natural gas sales are freed from the requirements of the NGA, several adjuncts to NGA regulation are obviated. First, there is no longer any necessity for a producer to seek certification of the sale as serving the public convenience and necessity. The replacement for this requirement under the NGPA is limited to the state determination mechanism and the pricing limits established in the NGPA. New sales in interstate commerce no longer require certification as a prerequisite to commencement of deliveries. Nor does the requirement for abandonment authorization before termination of deliveries of natural gas exist with respect to natural gas no longer subject to NGA regulation. In the case of first sales of natural gas not previously committed or dedicated to interstate commerce or exempted from NGA regulation, tariff filings and rate increase applications are dispensed with. (Of course, specific requirements for filing to establish the right to collect the maximum lawful price levels exist under the regulations and annual reporting will be required under the NGPA in many instances. However, the nature of these filings, which are in many cases one-time notification type filings is quite different from the

rate filings previously required under the NGA.)

For natural gas which on the date of enactment was committed or dedicated but which is exempted from the NGA under section 601(a)(1) of the NGPA, there are substitute mechanisms for NGA section 7(b) abandonment authorization. These substitute provisions, intended to provide a degree of certainty to purchasers dependent upon a predictable natural gas supply, are found in section 315 of the NGPA. The Commission has not attempted to implement these sections in the initial implementing regulations. It is our intent to do so in the near future. That section gives the Commission dual authority to establish by rule or order the minimum duration of any contract (other than an existing contract) for the purchase of natural gas and to require by rule right of first refusal with respect to any gas committed or dedicated to interstate commerce before the date of enactment if such gas is high cost gas, new natural gas or natural gas produced from any new, onshore production well.

Indirectly, NGA regulation is affected by the operation of section 601(b) and (c) of the NGPA. Section 601(b) provides that any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if such amount

does not exceed the maximum lawful ceilings established by the NGPA or if there is no maximum lawful price applicable by reason of elimination of price controls. Section 601(c), the guaranteed passthrough provision, states that the Commission may not deny, or condition the grant of any certificate under section 7 of the NGA based upon the amount paid in any sale of natural gas if the amount paid meets the standards of section 601(b) and is, therefore, by statutory fiat, just and reasonable. Additionally, the Commission may only deny the recovery by any interstate pipeline of any amount paid with respect to the purchase of natural gas under section 601(b) to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds.

Finally, included in the implementing regulations are provisions covering certain transportation service by both interstate and intrastate pipelines. Provision is made for intrastate pipeline sales and for the assignment of natural gas excess to their requirements. Also, the Commission has revised its regulations previously applicable to emergency transactions and revised the procedure and the standards for emergency sales of natural gas for this winter's heating season.

GENERAL OUTLINE OF IMPLEMENTING REGULATIONS

The proposed regulations add two new subchapters to the Commission's regulations in Chapter I of Title 18. New Subchapter H (Parts 270 through 276) contains the new producer regulations under the NGPA. Part 270 sets forth general rules applicable to the entire subchapter. Maximum lawful prices under NGPA sections 102 through 109 are implemented in Part 271. Part 273 provides for interim collections and refunds, while determinations of eligibility by state and federal agencies and Commission review of those determinations are provided for under Parts 274 and 275. Finally, Part 276 covers reports.

New Subchapter I will cover regulations under the NGPA other than those relating to producer regulation. The current proposal includes only Part 284, which implements the Commission's authority under sections 311 (relating to certain pipeline sales and transportation of natural gas) and 312 (relating to assignment of intrastate pipeline's contractual right to receive surplus natural gas. Regulations relating to other authorities of the Commission will be added later under Subchapter I.

The proposed regulations would also delete sections 2.68, 157.22 and 157.29 of the Commission's regulations in Subchapters A and E, respectively, and add new provisions to cover emergency transactions for the current heating season.

To assist the reader and guide comment, a brief description of each part and subpart is included as a preamble to the text of the regulation. The statutory requirements that certain of our implementing regulations be fashioned and made effective on December 1, 1978, has not permitted the Commission to provide as full and detailed an explanation of its regulations as we would have liked. However, before any regulation is placed into effect (with or without modification) we expect to be able to add greater substance to the explanatory materials, guided by the written comments of interested parties received in response to this invitation for views.

II. SUMMARY OF PROPOSED REGULATIONS

PART 270

Part 270 prescribes rules and definitions that apply to Subchapter H. Subpart A contains the general rules and definitions. Subpart B contains special rules.

The general rules of § 270.101 relate to the application of maximum lawful pricing provisions of the NGPA. This section makes it unlawful for any person to sell natural gas at a first sale at a price which is greater than that permitted under Part 271. This section also sets out general provisions governing the determinations of eligibility to collect maximum lawful prices and describes the categories of natural gas for which prior determinations are to be made. In addition, this section makes it clear that the pricing provisions of Part 271 do not supersede or nullify contract provisions establishing prices below the applicable maximum lawful price. Finally, this section provides that any collection of maximum lawful prices is subject to refund obligations.

Section 270.102(a) provides that terms defined in the NGPA have the same meaning for purposes of these regulations unless further defined. Some terms used in individual sections or subparts are defined therein. Those used in more than one Subpart are defined in § 270.102(b). These

include "production in commercial quantities," "crude oil," "surface location," "intrastate contract," "successor to an existing intrastate contract," and "intrastate rollover contract." The term "jurisdictional agency" is defined in § 270.103, which includes a table of agencies by state.

The special rules of Subpart B apply to first sales of natural gas and the maximum lawful prices which apply to such sales. Section 270.201 provides that the maximum lawful price for a first sale of natural gas produced from multiple wells, properties or reservoirs which have different applicable maximum lawful prices will be the weighted average of the maximum lawful prices applicable to each well, property or reservoir.

Section 270.202 provides that a person who purchases natural gas at a first sale and subsequently resells the gas in a transaction which is also a first sale (a "reseller") is, with respect to maximum lawful prices, subject to the same restrictions, as modified by this section, as the initial first seller. In addition, these resellers are obligated to make and retain records respecting such sales.

Section 2(21)(B) of the NGPA states that a sale of natural gas by a pipeline or distribution company is not a first sale unless the sale is "attributable to volumes of natural gas produced" by such company. Section 270.203 delineates certain situations in which a sale of natural gas by these companies is not to be considered a first sale of gas attributable to volumes produced by the companies.

Finally, § 270.204 presents the technical information necessary to determine the number of British thermal units (Btu's) per unit volume of natural gas. This is necessary because maximum lawful prices for first sales of natural gas are stated in terms of dollars per million Btu's.

PART 271 - SUBPART A

Subpart A of Part 271 sets out, in summary tables, the pricing provisions applicable to certain categories of first sales of natural gas delivered in the months of December, 1978, and January, 1979. It also provides the method and the inflation adjustment factors to be used for calculating maximum lawful prices for those categories of gas for which prices cannot be derived from the summary tables. These latter categories are ones for which maximum lawful prices must be calculated by the seller.

Section 271.102 sets out the methodology by which maximum lawful prices are to be calculated. The procedure involves adjustment for inflation and requires only simple multiplication. The price for a given month is calculated by multiplying (1) the price which was allowed for the sale of natural gas delivered in the preceding month, by (2) a single adjustment factor which is published by the Commission. The adjustment factor, termed the "monthly equivalent of the annual inflation adjustment factor," is computed using the method of calculation prescribed under section 101(a) and (b) of the NGPA. These calculations will be made by the Commission and published at least 5 days before the beginning of any month for which the factor will apply.

The first price from which all maximum lawful prices are to be calculated is termed a "base price." This price varies according to the category of natural gas for which a calculation is to be made. Once this price is known the calculation can proceed, month-to-month, until the applicable monthly maximum lawful price is determined.

By way of example, assume that a calculation is to be made for natural gas subject to § 271.402(c)(1) for which a just and reasonable rate of $1.00 was in effect. The calculation is to be for the December, 1978, maximum lawful price. First an "applicable monthly price" for November, 1978 must be calculated. This calculation is done by taking the price for April, 1977 ($1.00) and subjecting it to monthly inflation adjustments for all months between April, 1977, and November, 1978. A price for May, 1977, is calculated by multiplying $1.00 by 1.00636, the applicable monthly equivalent of the annual inflation adjustment factor for May, 1977, as presented in the table accompanying § 271.102(c). The result, rounding to the nearest mill, is $1.006. This price is the base price which must then be multiplied by 1.00636, the applicable factor for June, and is again rounded to the nearest mill to reach a price of $1.012 which is then the price for June, 1977. This price, in turn, becomes the price for the month of July, 1977, and must then be multiplied by the monthly equivalent of the annual inflation adjustment factor for July, 1977 (1.00431);

and so on through the monthly iterations. The result should be a price of $1.115 for the month of November, 1978. At this point, the maximum lawful price applicable for deliveries made in December, 1978, can be determined. This is done by multiplying the November price of $1.115 by 1.00581, the factor which applies for December. The result is a maximum lawful price of $1.121 for that month.

This example is chosen to exhibit the calculation which § 271.402 will require of some sellers. Sellers subject to either the § 271.502 or § 271.602 pricing provisions will have prices based on the contract price per MMBtu on November 9, 1978, or in the case of rollover contracts, the month in which the rollover occurs. In either event, only a single multiplication need be made to determine the next month's maximum lawful price.

The monthly equivalents of the annual inflation adjustment factors are presented in the table accompanying this section. The change which occurs for each quarter up through the second quarter of 1978 reflects changes in the GNP implicit price deflator. The monthly factors calculated for both the third and fourth quarters of 1978 and the first month of the first quarter of 1979 are all the same because of the late publication of GNP implicit price deflators and the special provision of section 101(a)(3) of the NGPA to use

the latest figures available as of the date of the statute's enactment for the calculation of such factors.

PART 271 - SUBPART B

Subpart B of Part 271 implements section 102 of the NGPA which establishes a maximum lawful price for "new natural gas" and for "natural gas produced from a new OCS reservoir on an old OCS lease." These terms are defined by reference to the NGPA.

Section 271.204 contains a special rule for vertical measurement of the 1,000 foot distance between completion locations necessary for some determinations under this subpart. The rule clarifies the measurement methodology for completions made by perforation and for "open-hole" completions. In addition special rules are provided for the statutory terms "capable of producing in paying quantities" and "suitable facilities."

PART 271 - SUBPART C

Subpart C of Part 271 implements section 103 of the NGPA and applies to first sales of natural gas from new onshore production wells. Section 103(c) of the NGPA defines a new onshore production well as one spudded on or after February 19, 1977, which complies with any applicable well-spacing requirements. Wells which do not comply with well-spacing requirements or are drilled into existing proration units do not qualify for the new onshore production well prices unless they meet the requirements of the special rule set out in § 271.304.

The special rule is in two parts. The first part, paragraph (c), provides that for wells spudded on or after December 1, 1978, the proration unit requirement can only be satisfied if the jurisdictional agency finds that the well is necessary to effectively and efficiently drain a portion of a reservoir covered by the proration unit, which cannot be so drained by any existing well within the unit. Such a finding must involve a redefinition of the proration unit or alteration of or an exception to otherwise applicable well-spacing requirements.

Paragraph (d) of the rule recognizes that wells drilled between February 19, 1977 and December 1, 1978 may qualify for the price established in section 103. The rule permits such wells to qualify if the agency reviews its preexisting record and determines that it explicitly or implicitly made the same finding necessary for wells spudded after December 1, 1978.

The proposed special rule further provides that in the absence of either an explicit finding or a demonstration by the agency that such a finding was implicit in its authorization to drill the well, the application for a determination will be denied.

The Commission is particularly interested in obtaining comments on this special rule so that it may further consider whether the proposed approach is the best method of implementing section 103 of the Act.

PART 271 - SUBPART D

Subpart D of Part 271 implements sections 104 and 106(a) of the NGPA. These sections prescribe the maximum lawful price for the first sale of natural gas which was committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate under the Natural Gas Act was in effect. Under section 104, the maximum lawful price is the just and reasonable rate for each vintage of gas established by the Commission as of April 20, 1977, as adjusted monthly for inflation from that date forward. Just and reasonable rates established by the Commission after April 20, 1977, constitute the ceiling rates under section 104 and are not generally adjusted for inflation. Section 106(a) prescribes the maximum lawful price for rollover contracts executed after November 9, 1978.

The interim regulations set forth the maximum lawful price applicable to each vintage of gas and define the various vintages of gas established by the Commission's national or area rate opinions. Rules for calculating the maximum lawful price applicable to natural gas for which a non-vintage just and reasonable rate was not previously established under special relief and optional procedures are also included in this subpart.

Section 271.402(a) of Subpart D includes a table of maximum lawful prices for each vintage of previously committed or dedicated natural gas. Transition from the Natural Gas Act prices to the NGPA prices affects two of the prices included therein differently from other categories. First, the price established in section 106(a) of the NGPA for sales by small producers of rollover contract gas is less than the rate such producers would have received for the same category of gas under the Natural Gas Act. Pursuant to §157.40(c)(1) of this chapter, small producers were entitled, under the Natural Gas Act, to 130% of the maximum base rate established by the Commission for rollover contracts. Thus, for replacement contracts entered into prior to November 9, 1978, section 104 of the NGPA, which is keyed to the rates previously established by the Commission, prescribes a rate reflecting this 30% differential for sales by small producers. However, for contracts rolling over on or after November 9, 1978, section 106(a) prescribes a rate of 54 cents per MMBtu, as adjusted for inflation from April 20, 1977, for both large and small producers. As a result of this anomaly, a small producer who executed a rollover contract prior to November 9, 1978, would be entitled to a rate of 77.1 cents

per MMBtu as of December 1, 1978, whereas a small producer who executed a rollover contract on or after November 9, 1978, would be entitled, under section 106(a), to a rate of 60.3 cents per MMBtu.

In order to prevent a small producer from receiving a rate under the NGPA lower than that to which he would be entitled under the Natural Gas Act, the Commission finds it necessary to invoke our authority under section 106(c) of the NGPA. This section provides that the Commission may prescribe a maximum lawful price higher than would otherwise be applicable under section 106 if such higher rate is determined to be just and reasonable within the meaning of the Natural Gas Act. The Commission finds, pursuant to this section, that the rate previously established by the Commission for small producer replacement contract gas is just and reasonable within the meaning of the Natural Gas Act, and should be made applicable to small producer sales of rollover contract gas. The price so determined is 70.2 cents per MMBtu as of December 1, 1978. This price may be increased, in accordance with Opinion Nos. 770, et seq and Opinion Nos. 742, et seq., by an amount not to exceed 1.3 cents per MMBtu per annum commencing on January 1, 1979, and the first day of every year thereafter for the term of the contract dedicating the subject gas for sale in interstate commerce.

We note that this price is still not identical to the 77.1 cents per MMBtu price prescribed in the table for small producer sales of replacement contract gas. The price in the table was determined by adjusting for inflation the April 20, 1977, price of 70.2 cents per MMBtu established by the Commission for replacement contract gas. We invite the submission of data, views and arguments on or before December 15, 1978, regarding the question whether, under the standard set forth in section 106(a), the 70.2 cents per MMBtu rate applicable to small producer rollover contracts should be found not just and reasonable, and the just and reasonable rate should be raised to the 77.1 cents per MMBtu rate as adjusted for inflation in months following December 1978.

A second transition problem exists regarding the large producer rate for rollover contracts prescribed in section 106(a). Such rate is determined by applying the inflation adjustment factor to an April 1977 rate of 54 cents per MMBtu in order to arrive at a December 1, 1978, rate of 60.3 cents per MMBtu. However, the large producer rate for replacement contracts was 53 cents as of April 20, 1977, which when adjusted for inflation translates to a rate of 59.3 cents per MMBtu as of December 1, 1978. Again, we note that the only difference between a replacement contract and rollover contract is that the latter is executed on or after November 9, 1978. In view of this disparity in treatment for the same types of

sales of natural gas, we invite the submission of data, views and arguments on or before December 15, 1978, regarding the question whether, under the standard set forth in section 106(a), the large producer replacement contract rate of 59.3 cents per MMBtu should be found not just and reasonable, and the just and reasonable rate should be raised to the 60.3 cents per MMBtu rate for large producer rollover contracts.

Under § 271.402(c)(2) of these regulations any "just and reasonable" rate established by the Commission for a sale of natural gas after April 20, 1977, and prior to November 9, 1978, is the maximum lawful price applicable to such sale if higher than the otherwise applicable price prescribed in § 271.402 (a) or (c)(1). As to producer applications under the optional procedure regulation set forth in § 2.75 of this chapter, a "just and reasonable" rate is that rate established by the Commission in its final order on such applications.

Under § 271.403 of these regulations, we have provided a special rule regarding a carrying charge adjustment for advance payments. In Opinion No. 770-A , the Federal Power Commission recognized that capital generated through the advance payment program was no longer required to bring

additional gas supplies to the interstate market. The Commission noted that the rate level set forth in that opinion was designed to achieve the capital formation objective. Accordingly, the Commission found that as to additional advance payments made after the issuance of that opinion, it would be inequitable to require consumers also to pay the carrying charges on these amounts.

The Commission determined that producers who accept advance payments after the date of the opinion should reduce the rate prescribed therein for post-1974 gas which was committed under any further advance payments by the cost of the advances borne by consumers.

Because of these same considerations, we have provided in § 271.403 for the same adjustment in the rates charged by producers for post-1974 gas. Producers subject to this carrying charge rule would be required to reduce their rates by 83 cents per MMBtu for all deliveries made pursuant to the applicable advance payment agreement until the total amounts so deducted equal the amounts collected by the purchasing pipeline from its customers as a result of including the applicable advance payments in rate base.

PART 271 - SUBPART E

Subpart E of Part 271 implements section 105 of the NGPA by setting forth the procedure for determining the maximum lawful price for first sales of natural gas under existing, or successors to existing, intrastate contracts.

Although throughout the proposed regulations the reference is to intrastate contracts, it should be noted that these provision apply to contracts which govern the sale of natural gas which was not previously committed or dedicated to interstate commerce on November 8, 1978 (the day before the date of enactment of the NGPA). Included in this category is any gas which was sold in interstate commerce under an emergency sale, a limited term certificate, and certain direct sales for which specific transportation certificates had been issued by the Commission.

Under Subpart E of the proposed regulations the maximum lawful prices depend upon the relationship that existed on November 9, 1978, between the existing contract price and the new natural gas price. Under § 271.502(a), if the contract price is less than the new natural gas price, then the maximum lawful price will be, pursuant to section 105(b)(1) of the NGPA, the lower of the new natural gas price or the price under the terms of the existing contract on November 9,

1978, (as such price may be changed from time to time in accordance with contract terms in effect on November 9, 1978). Under § 271.502(b), if the existing contract price exceeded the new natural gas price on November 9, 1978, then the maximum lawful price will be the higher of the new natural gas price or the contract price limited to escalation by the monthly equivalent of the annual inflation adjustment factor.

The term "contract price" is defined in § 271.504 to mean the price per MMBtu charged for deliveries of natural gas occurring on November 9, 1978, or the price that would have been charged had deliveries occurred on that date.

Subpart E sets forth a special rule limiting the price effects of modifications of contract terms executed after November 9, 1978. Section 271.505(a) provides that no such modification may have the effect of requiring the purchaser to bear any greater costs than would have been borne under the terms of the existing contract. Section 271.505(b) stipulates that no such modification may provide for an earlier date for deliveries than provided for in the existing contract. While

non-price terms may be changed by such a modification, they may not result in a higher contract price.

The Commission is particularly interested in receiving comments on these special rules.

PART 271 - SUBPART F

Subpart F of Part 271 implements section 106(b) of the NGPA. Subpart F applies to first sales of natural gas under intrastate rollover contracts, and sets forth the procedure for determining the maximum lawful price applicable to such sales. Two tables are provided in the regulation: one for the prices permitted to be charged under section 106(b)(1), and the other for prices permitted to be charged under section 106(b)(2).

The maximum lawful price under Subpart F for first sales of natural gas under section 106(b)(1) of the NGPA is to be the higher of: (a) the maximum price under the expired contract in the month of expiration as escalated by the monthly equivalent of the annual inflation adjustment factor, or (b) $1.00 per MMBtu escalated from April, 1977 to be escalated by the same inflation adjustments.

The table in § 271.602(b) provides for the maximum lawful price for natural gas to which may be charged for certain State or Indian royalty natural gas production interests under section 106(b)(2) of the NGPA.

Subpart F also contains a special rule similar to § 271.505 regarding clauses in rollover contracts that have the effect of shifting production-related costs to the purchaser without a concomitant decrease in the sale price of natural gas. Section 271.605 mandates that a provision in a rollover contract that differs from the

comparable provision of the expired "existing contract" and which has the effect of shifting such production-related costs to the purchaser, shall be treated as if it is an increase in the first sale price. As in the case of § 271.505, the Commission invites comments and views on this special rule.

PART 271 - SUBPART G

Subpart G of Part 271 implements section 107 of the NGPA, which applies to first sales of natural gas from deep high-cost natural gas wells. It contains a special rule in § 271.704 clarifying the method of determining the depth of a well.

Section 107 of the Act authorizes the Commission to establish incentive prices for gas from geopressurized brine, occluded natural gas from coal seams, and gas from Devonian shale. It also authorizes the Commission to establish incentive prices for gas produced under other conditions as the Commission determines present extraordinary risks or costs.

The proposed regulation does not address the question of incentive prices for the three statutory categories mentioned above, nor does it address the questions of whether additional categories should be designated as "high cost gas." The Commission will address these issues in a separate public notice in which it will seek comments regarding what, if any, incentive price would be appropriate for each of these categories, and what additional gas is produced under conditions which present extraordinary risks or costs.

PART 271 - SUBPART H

Subpart H of Part 271 implements section 108 of the NGPA, which is applicable to first sales of natural gas produced from stripper wells. This subpart contains definitions of terms used in section 108, and prescribes several special rules intended to assist in the application of section 108.

Section 108 of the NGPA provides a maximum lawful price for stripper well natural gas, and prescribes a definition for stripper well gas. According to the general rule prescribed in section 108(b)(1) of the statute, a well is a stripper well if, during the 90-day production period ending within 120 days of the date on which the filing is made it produced nonassociated gas at a rate which did not exceed an average of 60 Mcf per production day, and if the well produced at its maximum efficient rate of flow during such 90-day period. Section 108(b)(2) also provides that a well may continue to qualify as a stripper well if production exceeds 60 Mcf per day during any 90-day production period, if the increased production was the result of the application of recognized enhanced recovery techniques.

Section 271.803 of Subpart H defines "recognized enhanced recovery techniques" and "nonassociated gas." The definition of "recognized enhanced recovery techniques" includes processes or equipment which increase the ultimate recovery of gas from a well and excludes techniques or equipment necessary for normal well maintenance, repair, or replacement.

The proposed definition of "nonassociated natural gas" would permit a stripper well to qualify under this subpart if it produces an average of no more than one barrel of oil per production day during the 90-day production period which is the basis of the determination of stripper well status. Because of the significance of this definition comments and suggestions on this question are specifically invited.

Section 271.804 sets forth special rules which interpret and apply terms used in the NGPA. Section 271.804(a) and (b) concern the methodology for measurement of production from a well. Section 271.804(a) states that the volumetric basis for determining the rate of production from a single well is the total volume of gas produced from all producing intervals of the well. Section 271.804(b) applies when the wells are not individually metered.

In this circumstance, jurisdictional agencies may average rates of production in order to determine whether particular wells are stripper wells. For example, six wells may be attached to a single meter. If the meter showed deliveries averaging 240 Mcf per production day or less during the relevant period, presumptively all wells would qualify. If, on the other hand, deliveries from the six wells averaged 370 Mcf per production day, then presumptively, none of the wells would qualify. In either case, alternative evidence may be offered in rebuttal to establish qualification or the lack of qualification.

Section 271.804(d) is a rule applying the statutory requirements with respect to "maximum efficient rate of flow" (MER). The proposed rule provides that a well is presumed to have produced at its MER during the 90-day production period if it produced an average volume of 60 Mcf or less per production day during a 12-month period ending concurrently with the 90-day production period which is the basis for the determination. There may, however, be situations in which a 12-month production history is not available. In such situations the jurisdictional agency may look to other types of evidence, such as flow tests, which would measure the production capability of a well, or

it may defer making the determination for a time necessary to acquire and submit a 12-month production history. If the agency defers the determination, the applicant would, if contractually entitled, be able to collect the stripper price subject to refund.

Section 271.804(e) is a special rule which permits wells to retain stripper status despite increases in production above the 60 Mcf per day level, provided the increase is attributable to seasonal fluctuations. Jurisdictional agencies may make the determination that a well is seasonally affected on the basis of production history over a 24-month period if production from the well has not and cannot reasonably be expected to exceed an average of 60 Mcf per day for any 12-month period.

Section 271.805 is a rule implementing section 108(b)(2) of the NGPA. The rule disqualifies wells which, subsequent to the jurisdictional agency determination, produce quantities of gas in excess of the amounts permitted by the law and this subpart.

The proposed rule provides for a reporting mechanism to monitor the continued qualification of the well. Both the operator of the well and the purchaser of the gas must report any increase in gas production above an average of 60 Mcf per production day for any 90-day production period. Unless the operator receives a determination from a jurisdictional agency that the increase was due to the application of recognized enhanced recovery techniques, or is determined to be seasonably affected, he may no longer collect the stripper price for the well. If the operator files a petition for a determination that the increase in production results from enhanced recovery techniques or seasonal fluctuation, continued, collection of the stripper well price shall be made subject to refund for deliveries made after the last day of the applicable 90-day or 12-month production period.

PART 271 - SUBPART I

Subpart I of Part 271 implements section 109 of the NGPA by setting a maximum lawful price for "other categories of natural gas," that is, for first sales of natural gas that are not covered by any maximum lawful price under any other subpart of Part 271. (emphasis supplied)

Section 109 of the NGPA presents an important question of interpretation. The portion of section 109(a) which precedes paragraph (1) limits section 109's application to "natural gas which is not covered by any maximum lawful price under any other section of this subtitle." [emphasis supplied] However, paragraph (1) of section 109(a) specifically includes natural gas "produced from any new well not otherwise qualifying for a higher maximum lawful price." (emphasis supplied) The question presented is whether the general language in section 109(a) is intended to limit the scope of the examples which follow (so that new wells which qualified for a lower price under another section of the NGPA would be excluded from section 109), or whether the specific examples override the general statement of the scope of section 109 (so that new wells otherwise subject to a maximum lawful price which is lower than the 109 price nonetheless be eligible for the higher 109 price.

In this regard, it should be noted that the portion of section 109(a) which precedes paragraphs (1) through (4) introduces those paragraphs with the word "including." Under general rules of construction therefore it would appear that paragraphs (1) through (4) are qualified and controlled by the general statement of applicability which limits 109 to first sales not covered by any maximum lawful price. For this reason, the Commission is tentatively of the view that the first interpretation is correct and has incorporated that interpretation in the regulations implementing Section 109. A special rule in § 271.904 provides that the maximum lawful price in this subpart applies to a first sale of natural gas described in paragraph (1), (2), (3), or (4) of section 109 (a) only if that first sale is not covered by any other maximum lawful price in the NGPA.

As noted above, the Commission is aware that section 109 is susceptible to an interpretation different from the one proposed in the special rule. Comments on the approach taken and suggested alternatives are specifically requested.

PART 271 - SUBPART K

Subpart K of Part 271 of the Commission's proposed regulations implements section 110 of the NGPA. That section permits a first sale price of natural gas to exceed the applicable maximum lawful price for that sale to the extent necessary to recover State severance taxes borne by the seller. It also permits the same treatment for certain production-related costs borne by the seller, if allowed by the Commission.

The treatment to be accorded the addition of State severance taxes to maximum lawful prices is set forth under § 271.1102. The definition of "State severance tax" in § 271.1101 is the definition set forth in the Act. Paragraph (b) of § 271.1101 precludes recovery of those severance taxes which were enacted on or after December 1, 1977, and which do not apply equally to natural gas produced for delivery to interstate commerce and gas produced but not so delivered.

Paragraph (b) of § 271.1102 acknowledges that the just and reasonable rates applicable to natural gas produced from the Permian Basin area included a specific allotment for State severance taxes and excludes those amounts from the provisions of the section.

The section contains a requirement that sellers retain records of transactions in which the maximum lawful price is exceeded as a result of the addition of severance taxes.

The treatment of production-related costs is set forth in § 271.1104. This section establishes a procedure under which the Commission will consider applications for addition to maximum lawful prices only for those production-related costs specified in this section.

Paragraph (b) of the section precludes the filing of any application under this section with respect to natural gas which, as of November 8, 1978, was committed or dedicated to interstate commerce and was subject to a just and reasonable rate in effect at that time. It also precludes applications with respect to natural gas subject to an existing contract, or successor to an existing contract, or a rollover contract.

The proposal provides, in paragraph (c), that applications to the Commission will be considered for costs of gathering, liquifaction or transportation only if those activities occur off-lease. This paragraph also provides that the Commission will consider applications for costs of compression.

Paragraph (d) sets out certain quality standards for natural gas. Only applications covering costs to bring

gas to a quality greater than that specified in the standards in the paragraph will be considered under this paragraph. It also provides an exception to this rule for transactions involving sales to end users.

Section 271.1100(b) excludes from the operation of both § 271.1104 and § 271.1105 relating to production-related costs, natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the system approved under the Alaska Natural Gas Transportation Act of 1976 (ANGTA). Prudhoe Bay is a new and unique producing area for which there is no history of industry practice relative to the bearing of production-related costs. Therefore a separate rule under the provisions of ANGTA for natural gas from that producing area is required and will be promulgated by the Commission in the immediate future.

PART 273

The purpose of Part 273 is the establishment of procedures for the interm collections authorized by section 503(e) of the NGPA. That section permits interim collection, subject to refund, of those prices for certain categories of natural gas which must be authorized by a determination of well eligibility to be made by the jurisdictional state or federal agency and then reviewed by the Commission. These categories are new gas and certain OCS gas (as defined in section 102 of the NGPA), gas from new onshore production wells (section 103) high-cost natural gas (section 107) and stripper well gas (section 108).

Description of the regulations. Part 273 is divided into three subparts covering general provisions, the four separate provisions for interim and retroactive collections, and the procedures for refund guarantees and refund payments. Section 273.101 states that general authorization under these regulations to collect a maximum lawful price for a particular category of gas does not give a seller the right to collect a price which is higher than that permitted by the sales contract. Section 273.102 defines a "final determination" for purposes of this part as a determination of eligibility by the jurisdictional state or federal agency which is no longer subject to the

possibility of review and reversal by the Commission or the courts. It should be noted that under section 503(d)(1) of the NGPA a determination which has already become final can be reviewed and modified later if it was based in part on a factual statement which was untrue or materially misleading. Section 273.103 requires each seller to file an annual report of any collections and refunds under this part. Prior to the end of the first reporting period, on December 31, 1979, the Commission will issue a further rule specifying the form and scope of this report.

Subpart B of Part 273 provides the specific rules for interim collections and for retroactive collections where the maximum lawful price established by a final determination exceeds the price collected on an interim basis. Section 273.201 establishes a transitional rule for sales from new wells. It will expire on March 1, 1979. A seller may collect, subject to refund, the price specified in section 109 of the NGPA if an application for determination will be submitted to the jurisdictional agency by March 1, 1979. A seller may charge and collect the price determined under section 109 of the NGA and specified in paragraph (a) of § 273.201 ($1.630 per MMBtu for December 1978) after complying with the filing requirements of this section and until March 1, 1979. To qualify for this collection

authority, a seller must file with the Commission sworn statements that the sale is being made from a new well and is eligible for the price to be collected and that the seller has filed an application for determination with the jurisdictional agency or will do so by March 1, 1979.

After that application for determination has been filed, a seller may use the procedure established by § 273.202 to collect, subject to refund, the maximum lawful price for which the sale is believed to be eligible, for a period of up to eighteen months (or twelve months where collections under the section begin on or after May 1, 1979). To qualify for this interim collection authority, a seller must fulfill certain filing requirements, by submitting a sworn statement of eligibility, a duplicate of the NGPA form on which the application for determination has been submitted, and a statement certifying that a portion of the amounts collected under this procedure will be placed in escrow or secured by surety bond.

The authorization to make interim collections of the price for which the sale is believed to be eligible terminates on the date on which the Commission receives a notice that a determination of eligibility has been made or after

eighteen months (or twelve months where collections under the section begin on or after May 1, 1979) where no determination has been made. After such termination, the seller may not use this procedure again for this sale or any other sales from the same well. The seller will be limited to collection of the applicable maximum lawful price specified in Subparts D, E, F, or I of Part 271 until an initial determination is made, and § 273.203 can be used to collect the price established by that determination.

When the jurisdictional agency issues its determination of eligibility for the well from which the sale is being made, § 273.203 authorizes interim collection, subject to refund, of the price established by that initial determination. Within 15 days after interim collections begin under this section, a notice of collections must be filed with the Commission and served upon the purchasers. There are no other filing requirements under this section. The authority to collect the price established by the initial determination of eligibility ends 15 days after that determination has been reviewed and becomes final. If the Commission does not approve or reverse an initial determination, but makes a final finding that the determination should be remanded to the state or federal agency for further consideration, then the seller may continue to

collect the price established by the remanded determination for up to six months during reconsideration by the jurisdictional agency.

When a determination of well eligibility becomes final, a seller may immediately collect the price established there for all future sales from that well under the authority of the applicable section of Title I of the NGPA and Part 271 of these regulations. Section 273.204 of this part authorizes the retroactive collection of that finally-determined price for all first sales of gas delivered after the application for determination was filed. If this application is filed by March 1, 1979, then retroactive collections may be made for gas delivered on or after December 1, 1978. There are several qualifying conditions. A seller may not make retroactive collections for any first sale if the seller has not fully complied with all of the filing requirements and other provisions of these regulations for every first sale made by that seller. Similarly, a seller may not collect a retroactive amount from each purchaser for any sale until the seller has refunded to that purchaser all amounts which are then due to be refunded for the same sale or any other sale.

In some instances, the provisions of this part will be used to collect interim prices for first sales of natural

gas which was committed or dedicated to interstate commerce on November 8, 1978, the day before the date of enactment of the NGPA. Under section 601(a)(1) (B) of the NGPA, sales of committed or dedicated gas will be subject to the Commission's jurisdiction under the Natural Gas Act, particularly to the filing requirements for making a rate change, until a final determination that such gas qualifies as high-cost gas, new gas, or gas produced from a new onshore production well. The relationship between the filing requirements of these NGPA regulations and Part 154 of the regulations under the Natural Gas Act will be discussed in the Commission's final rule amending § 154.94(h) of Part 154 to be issued shortly in Docket No. RM79-4. Under the final rule, in the case of interim collections for first sales of gas which remain subject to the requirements of the Natural Gas Act, full compliance with the filing requirements of this part of the regulations under the NGPA will also satisfy the additional filing requirements under section 4(e) of the Natural Gas Act and Part 154 of the Commission's regulations. Thus, a seller which makes the filing required by § 273.203(c) may collect the price specified in the application for determination of eligibility without submitting the prior notice of rate change required

by § 154.94 of the Commission's regulations under the Natural Gas Act.

Subpart C of this part establishes procedures to assure that any interim collections will be refunded as necessary and for the actual payment of refunds with interest after a final determination that a first sale does not qualify for a price already collected under this part. Section 273.301 establishes a general obligation upon each seller to refund any collections which are not authorized by the NGPA and these regulations, if ordered to do so by the Commission at any time. For example, a determination can be reconsidered and modified after it becomes final, if it was based on an untrue or materially misleading statement of facts in the application for determination. As a result of that modification, additional refunds could be ordered even though the seller would have already discharged any specific refund obligations under § 273.302 and the prior final determination.

Section 273.302 sets out specific procedures for refund assurance and payment. A seller's potential liability to refund any interim collections must first be secured by the filing of a written undertaking to make refunds using one of the forms set out in § 273.302(b). A seller must file a series of refund undertakings covering collections for sales from the wells identified in an appendix to each

successive undertaking or one blanket undertaking which is a general agreement to make all refunds which may be required under the NGPA.

Interim collections that are made under § 273.202 pending an initial determination of eligibility and the proper price are subject to an additional requirement providing refund assurance. The seller is further required to secure surety bonds or to place in escrow the portion of the price collected under § 273.202 which exceeds the maximum lawful price determined under Section 109 of the NGPA (for sales from new wells) or the maximum lawful price under Sections 104, 105 or 106 of the NGPA (for sales from old wells).

Other provisions of § 273.302 require each seller to maintain full records of the amounts that are collected, subject to refund, and to make the actual refunds by cash or check within fifteen days after the applicable determination of eligibility becomes final. There is no provision for any other method to discharge a refund obligation, such as by work-offs, commitment of additional reserves to each purchaser, or reduction of the price charged for future deliveres. Permission to use an alternative refund method will be granted only in exceptional cases.

PARTS 274 AND 275

General. Under certain sections of the NGPA, eligibility for the maximum lawful price established by the Act is initially determined by the state and federal agency with regulatory jurisdiction over the production of natural gas. Jurisdictional agencies' determinations are subject to review by the Commission.

Jurisdictional agencies are authorized to make the determinations with respect to:

(1) new natural gas under section 102(c) of the NGPA;

(2) certain gas from the OCS under section 102(d);

(3) new onshore production, defined in section 103(c);

(4) high-cost natural gas defined in section 107(c); and

(5) stripper well natural gas defined in section 108(b).

The purpose of Subparts B, C, G, and H, of Part 271, is to reflect the statutory criteria for qualification for the maximum lawful prices for the categories of gas noted above and to propose rules necessary to clarify or implement those provisions. Subpart B of Part 274 of the proposal contains the filing requirements the Commission proposes to apply to applications for determinations filed with jurisdictional agencies. Other sections of the proposal apply to the procedures by which jurisdictional agencies make initial determinations and give notice of determinations to the Commission (Part 274, Subpart A) and the method by which the Commission will review those determinations (Part 275, Subpart B). Each of these provisions is summarized below.

PART 274 - SUBPART A

Subpart A of Part 274 prescribes procedures by which jurisdictional agencies make determinations pursuant to and in accordance with the NGPA. This subpart provides that the procedures to be applied are those followed by the agency to make comparable determinations. In addition, this subpart contains a rule concerning the manner in which a jurisdictional agency must notify the Commission that it has made a final determination of eligibility.

Section 274.102 provides that a determination is made once it is "administratively final" before the jurisdictional agency. If, for example, a state agency's decisions are normally subject to rehearing under its usual procedures, the determination is not final until the period for rehearing expires or rehearing is sought and denied.

Section 274.104 provides that a jurisdictional agency must notify the Commission within 15 days after making a determination and prescribes the manner in which the jurisdictional agency shall give the notice. Section 274.105 provides an option to the procedures prescribed in § 274.104. If an agency chooses to adopt the § 274.105 option, it may file with the Commission a report in which it undertakes to make the necessary determinations and which includes a description of the

procedures which it would follow in making them. The jurisdictional agency would then be relieved of the obligation to describe its procedures in each case. The public, and more especially representatives of the various agencies involved, are invited to suggest revisions or alternatives to this subpart which would both preserve state procedures and provide the Commission with an adequate basis for fulfilling its review responsibilities.

PART 274 - SUBPART B

Subpart B of Part 274 prescribes the filing requirements which must be met by an applicant to obtain a determination for new natural gas from a jurisdictional agency.

Section 274.201 sets forth general rules applicable to all applications. Succeeding sections impose specific requirements depending on the nature of the determination sought. The general requirements include a provision that applicants give notice of applications to their purchasers. Jurisdictional agencies may prescribe additional filing requirements.

Section 274.202 sets forth filing requirements for a determination that gas qualifies as new natural gas under

section 102 of the NGPA. The regulations require an applicant to present evidence substantiating, to the extent practicable, each element of proof required for a determination of eligibility. Section 274.202(c)(1) is typical of other sections in this subpart in that the applicant must file certain specific documents as well as the oath statements. Each applicant filing for a new onshore well determination under § 274.202(c)(1), must file a location plat showing all wells within 2.5 miles of his own well. He must then demonstrate that none of these wells is a marker well. In order to meet this burden, an applicant must consult all available records which would indicate whether any of these wells produced in commercial quantities at any time during the period from January 1, 1970 to April 20, 1977. Rather than require an applicant to file all production records along with the application, however, the proposal requires the filing of a statement, under oath, describing his search of records, and attesting to the fact that none of these wells is a marker well. The applicant's description of his search of records will enable jurisdictional agencies to verify the applicant's conclusion. This regulation is similar to the others which impose filing requirements. It

attempts to strike a balance between the need to support each determination by substantial evidence and the potential for excessive burdens on applicants and jurisdictional agencies.

Applicants filing under § 274.202(d) for a new onshore reservoir determination must submit geological information which demonstrates that production is from a new onshore reservoir. These data are accompanied by an attestation similar to that required by paragraph (c). In all cases individual agencies may, if they wish, require the filings of all documents relied upon by the applicant. The Commission has taken a similar approach toward filing requirements under § 274.203.

Section 274.206 prescribes the filing requirements for applications for stripper well determinations. To a greater extent than other sections of this subpart, this section requires the submission of actual documents rather than oath statements. In addition to the documents, applicants must submit an affidavit attesting to the well's eligibility.

Section 274.207 entitled "Alternative filing requirements," acknowledges that due to differences in State records, some jurisdictional agencies may desire or need to resort to documents other than those required by these proposed regulations.

Under this section, a state agency may propose alternate filing requirements which might replace some or all of the requirements specifically provided elsewhere in Subpart B. If the Commission concludes that the alternative requirements are more appropriate for a particular state and will satisfy the evidentiary requirement it may approve the alternative requirements. Upon such approval, applicants for determinations would file according to the alternate plan rather than under Subpart B.

The Commission wishes to emphasize the need for public comment on this subpart. It is essential that filing requirements be practical and manageable from the standpoint of both the applicants and the jurisdictional agencies. It is also essential, however, that they provide the jurisdictional agencies and the Commission with substantial evidence on which to make and review determinations.

PART 274 - SUBPART C

Subpart C of Part 274 briefly prescribes the procedures by which a jurisdictional agency may execute an agreement to waive its authority to make NGPA determinations. It implements section 103(c)(2) of the NGPA.

In order for a jurisdictional agency to waive its authority, it must enter into an agreement with the Commission. Under § 274.302, an agency may submit a request for waiver to the Commission. Section 274.303, specifies the contents of such a request and requires an agency to state the reasons and the necessity for a waiver. If the Commission agrees to enter an agreement of waiver, it may do so on terms and conditions agreed to by the Commission and the jurisdictional agency. The provisions of § 274.303 specify the method of terminating the waiver agreement by either the Commission or the jurisdictional agency. Section 274.303 provides that the Commission shall give public notice of all agreements of waiver and that once a waiver agreement is executed, applicants should file for determinations with the Commission according to the filing requirements set forth in Subpart B of Part 274.

PART 275 - SUBPART B

Subpart B of Part 275 prescribes the procedures governing Commission review of determinations by jurisdictional agencies. The regulations are promulgated under the provisions of section 503 of the NGPA and the general rulemaking authority of section 501(a) of the Act.

Section 275.201 provides that upon receipt of the notice of determination from a jurisdictional agency, the Commission will give public notice of the determination in the Federal Register. In addition to identifying the specific proceeding, the notice will indicate that the record of the proceeding is available for inspection in the Commission's Office of Public Information.

Subparagraph (a)(1) of § 275.202 tracks section 503(b)(1) and (2) of the statute in setting forth the standards which govern Commission review. The Commission will reverse decisions not supported by substantial evidence and will remand decisions to the jurisdictional agency if there is evidence in the Commission's records which was not before the jurisdictional agency and which is inconsistent with the determination. Section 275.202(b) also contains procedures under which the Commission will return determinations to jurisdictional agencies based on applications which

did not comply with applicable filing requirements. Unless a conforming application to the jurisdictional agency is made within 45 days, the applicant's right to any interim collection of the requested rate terminates.

Under § 275.203 any person may file a protest with the Commission within 15 days after the Commission publishes notice of receipt of a determination by a jurisdictional agency. Any person protesting a determination must indicate whether it is alleged that the determination is not supported by substantial evidence or that there is inconsistent information in the Commission's files. It should be noted that under § 275.203(b)(iii), a protestor may submit information for inclusion in the Commission's public records. Accordingly, the data or information on which the Commission may rely in remanding a determination need not have been in the Commission's records at the time the jurisdictional agency made the determination.

Section 275.202(d) provides for conferences with the Commission staff after issuance of a preliminary finding. While the NGPA does not require such a procedure, the Commission wishes to provide an opportunity to all parties,

including jurisdictional agencies, to present views concerning a determination. In addition, the conference procedure will assist the Commission in making a judgment on review.

Section 275.202(e), consistent with sections 503(b)(1)(B), and (b)(2)(B) provides that the Commission will issue a final order within 120 days after issuance of a preliminary finding. While the statute requires a final order only when the Commission wishes to reverse or remand a decision, the proposal provides that the Commission will issue such an order in any case in which a protest was filed and a preliminary reversal or remand was issued.

Under section 503(d), final determinations are binding unless based on an untrue statement of fact, or a record from which a statement of material fact was omitted. Section 275.205 of the proposal sets forth a procedure for reopening determinations on those grounds. The Commission may, at any time, on its own motion or in response to a petition, reopen a determination if it appears that the necessary grounds exist.

If the Commission does reopen a determination, it will give notice to the jurisdictional agency involved as well as to all persons who participated in the prior

proceeding. Within 150 days of the Commission order reopening a determination the Commission will issue a final order after giving all persons who received notice an opportunity to express their views. If the Commission finds that the requisite grounds exist, it will vacate the determination and order remedies, including refunds, as it deems appropriate.

In conjunction with the substantive rules and the regulations concerning filing requirements, this subpart should provide an adequate basis for the exercise of review authority. In addition, this subpart is intended to open the review procedure to all interested persons to the extent possible within the time constraints imposed by the statute. The proposals in this subpart should be considered with these purposes in mind. The Commission is particularly interested in comments on this subpart.

PART 276 - SUBPART A

Subpart A of Part 276 sets forth reporting requirements applicable to first sales of natural gas sold under existing intrastate contracts, intrastate rollover contracts, and other categories of natural gas (Subparts E, F and I of Part 271).

In each case, certain information is required of the seller. If the purchaser of gas under section 105 or 106 of the NGPA is a pipeline, the purchaser must also file reports. Finally, in some instances, sellers of less than 10,000 MMcf of natural gas per year may elect to make oath filings instead of detailed reports.

A seller of natural gas under an existing intrastate contract must file annually a report setting forth detailed contract information as well as an oath filing that the information in the report is true, and that sales in the reporting period comply with the NGPA and Subpart E of Part 271. Successive annual reports need not restate previously reported information.

If the sale is to an interstate or intrastate pipeline, the pipeline, rather than the seller, is responsible for filing the detailed contract information, as well as an oath statement as to the accuracy of the information. If

a pipeline purchaser makes the principal filing, the seller must still file a statement under oath that the sale complies with the NGPA and Subpart E of Part 271, and that the seller undertakes to retain records reflecting the detailed information.

Reports required with respect to sales under intrastate rollover contracts are essentially the same as for sales under existing intrastate contracts, with appropriate modifications, and are set forth in § 276.103.

The annual reports with respect to sales under Subpart I of Part 271 are set forth in § 276.104. This report, filed by the seller, is required to provide detailed information with respect to the sale and an oath statement that the gas does not qualify under any subpart of Part 271 which provides a maximum lawful price lower than that under Subpart I, and that if the gas was committed or dedicated to interstate commerce a notice of rate change has been filed pursuant to § 154.94. The oath filing must also contain a statement regarding compliance with the NGPA and Subpart I and the truth of the information.

Sellers who sell less that 10,000 MMcf per year may elect reduced reporting requirements with respect to sales to purchasers other than pipelines under Subparts E and F. These sellers may file, instead of detailed information

otherwise required an oath statement as to compliance with the NGPA and applicable regulations and as to an undertaking to retain books and records containing the requisite information.

PART 284

Part 284 implements sections 311 and 312 of the NGPA in four subparts. Subpart A (section 311(a)) covers transportation of natural gas by interstate pipelines. Subpart B (section 311(a)) covers transportation by intrastate pipelines. Subpart C (section 311(b)) is proposed to become effective to cover sales by intrastate pipelines occurring after this winter heating season. A modification of the Commission's existing 60-day emergency transaction rules is proposed for implementation on December 1. Subpart D (section 312) provides for the assignment by intrastate pipelines of the contractual right to receive surplus natural gas.

PART 284 - SUBPART A

Subpart A provides that interstate pipelines may without prior Commission approval transport gas on behalf of intrastate pipelines and local distribution companies. The rates must be just and reasonable. If the interstate pipeline has on file a rate schedule applicable to these transactions, it must use the rates contained therein. Otherwise, it may charge either (1) a rate based on the methodology for recovering the transmission component of its sales rates, or (2) a rate for comparable service under its transportation rate schedule. Revenues in excess of

1 cent per Mcf must be credited and flowed back except to the extent the revenues (or volumes) have already been taken into account for rate purposes.

Contracts must be conditioned upon available capacity and compliance with the regulations. The maximum duration is two years, with rights to apply for extensions for additional two-year periods.

Reports required are the initial report (30 days after service begins), a subsequent report whenever information in the initial report requires updating; an extension report (90 days before extension) and a final report (30 days after termination).

PART 284 - SUBPART B

Subpart B provides for transportation of natural gas without prior Commission approval by intrastate pipelines on behalf of interstate pipelines and local distribution companies served by interstate pipelines. Rates are required to be fair and equitable. An intrastate pipeline may charge either (1) a rate based on methodolody for recovering the transmission component of its effective sales rates, or (2) a rate contained in a transportation schedule for comparable service.

Transportation arrangements and extensions (permitted unless disapproved by the Commission) may not exceed two years. The Commission may impose appropriate terms and conditions. Reporting requirements are similar to those in Subpart A.

PART 284 - SUBPART C

Subpart C is proposed to implement section 311(b) of the NGPA which, when adopted after this winter, will among other things, replace the emergency transaction exemptions. The proposal in its present form would authorize sales by intrastate pipelines to interstate pipelines and local distribution companies without prior Commission approval, but such sales could be terminated upon complaint or the Commission's own motion if the Commission made certain determinations set forth in the NGPA. Rates would be required to be fair and equitable, providing reasonable compensation for services and a reasonable opportunity for profit, plus an adjustment for current costs incurred under prescribed circumstances due to the sale, in addition to the pipeline's current weighted average acquisition cost of gas.

The adjustment would be permitted for natural gas included in a sale by an intrastate pipeline if the gas is acquired under an existing contract, is in excess of volumes that the pipeline would acquire but for the sale, and is priced above the pipeline's current weighted average cost of natural gas. In this case, the price of gas in a sale pursuant to Subpart C would be adjusted upward so as to offset the increase that would otherwise occur in the weighted average acquisition cost of gas. The purpose of the adjustment is to remove any incentive for the intrastate pipeline to defer purchases of gas otherwise available to it while preventing an increase in the cost of gas supplied to the intrastate customers. An example of calculation of an adjustment follows in Table A.

TABLE A - SAMPLE CALCULATION OF ADJUSTMENT

1. Intrastate pipeline purchased 800,000 Mcf during most recent actual 12-month period at a total cost of $1.5 million for a weighted average cost of $1.88 per Mcf.

2. At the time that the sale was being negotiated the lower cost source of supply had escalated so that the total cost of gas was $1.6 million or $2.00 per Mcf.

3. Intrastate pipeline could make available on an interruptible basis up to 100,000 Mcf annually which would be purchased under a contract providing for a price of $2.00 per Mcf in which case there would be no adjustment to the average cost of gas.

4. Alternatively, interruptible volumes of up to 100,000 Mcf annually would be available at a price of $2.50 per Mcf. In this case it would be necessary to charge a $2.50 rate in order not to affect the cost of gas to the regular customers of the pipeline.

Base Period						Current Period					
Mcf		Price		Cost		Mcf		Price		Cost	
100,000	x	1.00	=	100,000		100,000	x	2.00	=	200,000	
200,000	x	1.50	=	300,000		200,000	x	1.50	=	300,000	
300,000	x	2.00	=	600,000		300,000	x	2.00	=	600,000	
200,000	x	2.50	=	500,000		200,000	x	2.50	=	500,000	
800,000	x	1.88	=	1,500,000		800,000	x	2.00	=	1,600,000	

Current Period Adjusted for Add: Sales

Assume Purchase @ $2.00						Assume Purchase @ $2.50					
Mcf		Price		Cost		Mcf		Price		Cost	
100,000	x	2.00	=	200,000		100,000	x	2.00	=	200,000	
200,000	x	1.50	=	300,000		200,000	x	1.50	=	300,000	
400,000	x	2.00	=	800,000		300,000	x	2.00	=	600,000	
200,000	x	2.50	=	500,000		300,000	x	2.50	=	750,000	
900,000	x	2.00	=	1,800,000		900,000	x	2.06	=	1,850,000	

1,850,000
- 1,800,000
50,000 + 100,000 Mcf = $.50

Average cost of gas = $2.00
Adjustment = .50
Total = $2.50

Sales would be subject to interruption if necessary for adequate service to the intrastate pipeline's other customers. Other terms and conditions could be imposed.

The proposed Subpart C is included in the Notice of Proposed Rulemaking to be issued simultaneously with these interim regulations, but is proposed to be adopted after this winter heating season so a smooth transition may be accomplished between implementation of the emergency exemption provisions of § 7(c) of the Natural Gas Act and implementation of section 312 of the NGPA. A revised version of the Commission's current emergency program, terminating Docket No. RM78-7 will be adopted to be effective this winter only. The interim rule for emergency transactions is discussed below.

PART 284 - SUBPART D

Subpart D implements section 312 of the NGPA, and requires prior Commission approval for certain assignments of an intrastate pipeline's contractual right to receive surplus gas. Assignments would be authorized only if the Commission determined them to be consistent with Subpart D and the NGPA, and necessary or appropriate in the public interest. An exception to the prior approval rule would cover assignments of rights to receive gas if it were priced at or below the new gas price. These would be self-executing, subject to terms and conditions imposed by the Commission, and to certain reporting requirements. If an assignment

is authorized, any intrastate pipeline could assign all or any portion of its contractual right to receive surplus natural gas to an interstate pipeline or local distribution company. The intrastate pipeline would have to furnish documentation of a determination by the state regulatory agency having jurisdiction over it that the gas involved was surplus.

EMERGENCY SALE EXEMPTIONS

Background

On April 7, 1978, the Commission issued a Request for Comments regarding its proposed review of the 60-day emergency provisions for the sale and transportation of natural gas in interstate commerce. Comments were received from parties representing a wide range of interests, including independent and associated producers, intrastate and interstate pipelines, distribution companies, industrial consumers and the public.

After the comments were reviewed and analyzed the Commission issued a Notice of Proposed Rulemaking on August 14, 1978, and again requested comments. The proposal would have substantially changed the existing regulations covering emergency transactions.

Summary of the Proposal

The existing regulations, 18 C.F.R. §§ 2.68, 157.22 and 157.29, create exemptions from the certificate requirements of section 7 of the Natural Gas Act for the transportation and sale of natural gas in interstate commerce. Under these provisions emergency supplies of natural gas were obtained in substantial quantities in past winter heating periods and during times of summer storage fill, at market prices in excess of otherwise applicable national or area rates governing jurisdictional sales. The existing regulations allow a pipeline to buy emergency gas for 60-day periods whenever lack of supplies forces it to curtail its service to any customer. Each pipeline has the option of either injecting the emergency gas into its general system supply and recovering the costs through the purchased gas adjustment accounts, or specifically assigning the supplies to the customers in need of them and charging those customers for the cost of the volumes they receive.

The proposal also would have allowed exemptions from the certificate requirements but would have imposed stricter criteria for participation in the transactions. Emergency supplies would have been made available only for certain high priority end users, not including large industrials which have alternate fuel facilities and alternate fuels available during severe supply emergencies. The sales would have been allowed for 60 days only, without any extensions except under certain limited circumstances.

Pipelines would have been allowed to inject emergency gas into their system supply only when force majeure-type emergencies existed or for summer storage injection. Otherwise, the gas and its costs would have had to be directly assigned to the customer who requested it.

The proposal would have placed a restrictive standard on rates for emergency sales and transportation. Most importantly a rebuttable presumption of prudence was accorded only to producer sales in cases where the price was less than or equal to the current intrastate producer's sales of comparable location contract vintage as reported in FPC Form 45 and where the price was the lowest offer obtained as a result of inquiries with at least three qualified sellers.

The proposal also required additional reporting requirements to allow the Commission to monitor activities of emergency purchasers and sellers and to reduce the number of unnecessary emergency transactions.

Basis of this Amendment

The enactment of the NGPA on November 9, 1978, changed much of the statutory authority on which the proposed

emergency transaction exemptions were based. Title I of the Act establishes first sale price controls for interstate and intrastate natural gas. No longer are certificates required for new producer sales to the interstate market. Section 311 of the NGPA authorizes the Commission to allow intrastate pipelines to transport interstate gas without a certificate and allows interstate pipelines to transport gas on behalf of intrastate pipelines and local distribution companies. This authority has been implemented in Part 284 of the regulations. As a result, in large part, producer sales and pipeline transportation of intrastate gas in interstate commerce no longer require exemptions from the certificate requirements of the NGA.

Sales by an intrastate pipeline to interstate pipelines may be authorized pursuant the authority vested in the Commission by the NGPA subject to certain statutory conditions and requirements. Because such transactions are not first sales under Title I of the NGPA, intrastate pipeline sales would continue to be governed under the NGA unless and until the Commission exercises its authority under Section 311(b) of the NGPA.

Inasmuch as the winter heating season is already upon us and in light of the potential for confusion and complication as would result from any attempt to implement for

immediate application the section 311(b) authority, the Commission has determined to bring to conclusion its pending rulemaking and issue a rule which will largely leave the current emergency program in place for this winter. We therefore propose to notice for comment a proposed regulation implementing 311(b) but have suggested an effective date of March 31, 1979 - the conclusion of the current winter heating period.

Thus amendments to the existing regulations relating to emergency sales will terminate Docket No. RM78-7. This rule continues the 60-day emergency sales program, as modified, for this winter heating season and will eventually be replaced by regulations implementing the Commission's authority over sales under section 311(b) of the NGPA. The 60-day emergency program is temporarily implemented to permit a smooth transition from existing regulatory provisions to the regulations to be adopted pursuant to NGPA.

Comments

The comments received in Docket No. RM78-7, relating to producer sales, ceiling prices and pipeline transportation will not be discussed here. These issues have been resolved by the passage of the NGPA. Accordingly, our discussion is focused on those comments and issues which

remain relevant to this rulemaking including the definition of regulation of emergency; purchaser qualifications; methods of insuring complaince with the regulations; the duration of the transactions; price ceilings; reporting requirements; and the effective date of this rule.

The definition of emergency, in the proposal, required pipelines to focus on actual needs of end users rather than on the pipeline's curtailment. Many of the comments opposed such criteria. Because this rule is temporary only, and intended to operate during a transition period, the Commission has determined to adopt a definition of emergency that includes curtailment on a pipeline's system, a sudden unanticipated loss of supply or a situation where emergency gas is needed to protect life, health or physical property.

Purchaser qualification, in the proposal, allowed only distribution companies or interstate pipelines to purchase emergency supplies. Several of the commentators felt that qualified purchasers should be expanded to include direct industrials and all persons exempt from the provisions of the Natural Gas Act pursuant to section 1(c). The final rule does not enlarge the category of qualified purchasers. This rule will apply this winter only. The Commission points out, however, that the final rule like the proposal does permit direct assignment of emergency gas to industrial needs.

The methods of insuring compliance with the regulation caused concern among many of the commentators. Many felt that compliance with many of the requirements was beyond the control of each participant and that participants should be responsible only for those conditions which they could control. The Commission's intent behind insuring compliance is limited to guaranteeing that each participant fulfill the requirements applicable to his or her participation. Participants are responsible for the actions of other participants only to the extent explicitly described in the regulation.

The proposed duration of the transactions, which were limited to sixty days with extensions, did not draw significant comments. The Commission will adopt the 60-day limitation with extensions, as proposed.

The price ceilings aroused much concern among producers but no longer apply to them. Intrastate pipelines stated they should be allowed to charge all replacement costs rather than be limited to the weighted average system-wide costs with adjustments.

The reporting requirements were generally accepted. Some commentators stated that the requirements were unreasonably burdensome. Only two reports, however, are required. One is simply a notification with information

which may be briefly stated. The other requires more extensive information which should be readily available. Both requirements are necessary for the Commission to monitor emergency transactions.

Summary of the Emergency Exemptions Made Effective by this Rule

The emergency exemption rule deletes §§ 2.68, 157.22 and 157.29 from the regulations, and applies to emergency sales of gas by "qualified sellers," defined as any intrastate pipeline, interstate pipeline or local distribution company. "Qualified purchasers" are interstate pipelines and local distribution companies. Emergency sales are exempted from the certificate requirements of section 7 of the NGA so long as they meet the requirements of the emergency sale regulations.

Emergency supplies may be purchased only in cases of an emergency as defined in the regulations. Emergency transactions may not last more than 60 consecutive days unless the qualified purchaser has filed a petition requesting waiver for another 60 days and the Commission was not denied the petition. Emergency supplies may be injected into system supply or directly assigned to a pipeline customer. Sales by interstate pipelines shall be made at rates prescribed in their tariffs. Sales by

intrastate pipelines and distribution companies will be rebuttably presumed to be prudent if they do not exceed the maximum lawful price for new gas under § 271.202. Revenues in excess of 1 cent per Mcf must be credited and flowed back except to the extent the revenues (or volumes) have already been taken into account for rate purposes.

The interstate pipeline shall notify the Commission of any deliveries of emergency gas within 48 hours after commencement of the deliveries. They shall also submit reports each period in which emergency gas is delivered which will provide the Commission more extensive information.

Effective Date

The effective date of this rule is December 1, 1978. For the reasons stated with respect to the interim rules under the Natural Gas Policy Act of 1978, and because we are already in the midst of the winter heating season the Commission finds that good cause exists to waive publication of these amendments thirty days prior to their effective date.

III. PUBLIC PROCEDURE

Although the NGPA was not enacted until November 9, 1978, most of its provisions become effective on December 1, 1978. On that date, persons affected by the Act, including a large portion of the natural gas industry not previously regulated by the Federal government, will be subject to a comprehensive and complex new regulatory structure. For reasons set out more fully below, regulations implementing the Act must be effective on December 1, 1978, both for guidance to those regulated and to insure compliance with the new law.

When it became apparent that the period between final enactment of the law and its effective date would not provide sufficient time for the normal rulemaking procedures, the Commission established the following schedule and procedures.

The Commission has been meeting in public session since November 1, 1978, in order to discuss regulations drafted by the staff to implement the NGPA. Prior to the first meeting, the Commission made copies of the various proposals under consideration available to the public. As successive drafts were completed, these too were released prior to Commission discussion. During all of this period, certain members of the Commission staff were publicly designated as contact persons to answer legal and technical questions concerning the implementation of the Act.

The Commission intends to promulgate interim regulations on November 27, 1978. The interim regulations will be effective on December 1. A 60-day comment period will be afforded with respect to the interim regulations and public hearings will be held. The interim regulations will, after the 60-day period and after all views received since November 1, 1978, have been considered, be modified to the extent such comments and the Commission's experience under the interim regulations indicate that modification is appropriate.

The proposal published today provides for a comment period ending on November 20. The Commission is aware that in view of the significance and complexity of these regulations, comments will be extensive. To the extent possible, comments received before November 20 will be reviewed and appropriate changes incorporated into the interim regulations. As stated above, all comments will be retained and considered together with the additional comments received during the 60-day period afforded for comments on the interim regulations. The Commission believes that to the extent practicable, the procedures being followed with respect to these regulations are those best designed to insure maximum public participation prior to the time when the interim regulations must be effective.

In establishing this notice and comment procedure, the Commission has considered a number of factors. Most important, as stated above, is the fact that most of the Act's provisions become effective on December 1, 1978, including provisions establishing maximum lawful prices applicable to first sales of natural gas delivered after November 30, 1978. Some of the prices which may be charged for natural gas deliveries under the Act are established by reference to existing prices. For other categories, pricing determinations must be made by State or Federal agencies with regulatory authority over the production of natural gas. Unless the interim regulations are available on December 1, 1978, members of the public whose sales are governed by provisions of the Act will not be able to ascertain the applicable maximum lawful price governing their sales of natural gas. Indeed, some sellers and transporters of natural gas could unknowingly be in technical violation of the law. Purchasers may be uncertain whether prices requested exceed the prices permitted under the law. Similarly, agencies which must make determinations with respect to eligibility for prices established by the Act must be made aware of Commission requirements applicable to these determinations, including the manner in which the Commission will review such determinations.

After consideration of the problems associated with any delay in promulgating implementing regulations, the Commission has reached the conclusion that because the regulations must be effective by December 1, 1978 good cause exists to limit as described above notice and public procedure on this proposal. Full notice and public procedure on the proposal at this time, which as a practical matter would result in a delay of the effective date of the regulations beyond the effective date of the NGPA, are impractical and contrary to the public interest. It should be emphasized that all of the procedures described above will provide the fullest possible opportunity for public participation during the entire process leading to the promulgation of final regulations.

IV. WRITTEN COMMENTS

Interested persons are invited to submit written comments on the proposed regulations to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C. 20426. Comments should reference Docket No. RM79-3 on the outside of the envelope and on all documents submitted to the Commission. In view of the short comment period available on these proposed regulations, and in order that the Commission be able to take into account as many comments as possible, the Commission requests that persons submitting comments assist in three ways. First, persons should identify specifically the section or subpart they are addressing. Second, comments should clearly state whether they involve technical, policy or legal matters. Finally, where comments urge a different approach from one presented, specific alternative language should be proposed to the extent practicable.

Fifteen (15) copies should be submitted. To the extent possible, all comments and related information received by the Commission by November 20, 1978, will be considered prior to the promulgation of interim regulations on November 27, 1978. All comments will be retained and considered prior to the promulgation of final regulations.

(Natural Gas Act, as amended, 15 U.S.C. 717 et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 et seq., Federal Energy Administration Act, 15 U.S.C. 761 et seq., Natural Gas Policy Act of 1978, P.L. _____, Department of Energy Organization Act, P.L. 95-91, E.O. 12009, 42 F.R. 46267)

In consideration of the foregoing, it is proposed to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.
(S E A L)

Kenneth F. Plumb,
Secretary.

THIS IS CERTIFIED TO BE A
TRUE COPY OF THE ORIGINAL

Kenneth F. Plumb

PART 2 - GENERAL POLICY AND INTERPRETATIONS

1. Part 2 is amended by deleting § 2.68 in its entirety.

PART 157 - APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

2. Part 157 is amended by deleting §§ 157.22 and 157.29 in their entirety and by adding new Subparts C (§§ 157.45 through 157.52) and D (§ 157.53), to read as follows:

SUBPART C -- EXEMPTION OF EMERGENCY SALE ARRANGEMENTS FOR NATURAL GAS FROM CERTIFICATE REQUIREMENTS

Sec.
157.45 Purpose.
157.46 Definitions.
157.47 Exemptions from certificate requirements.
157.48 Terms and conditions of emergency transactions.
157.49 Price ceilings for emergency transactions.
157.50 Treatment of revenues from assigned volumes.
157.51 Reporting requirements for emergency transactions.
157.52 Waiver of requirements for emergency transactions.

§ 157.45 Purpose.

(a) The purpose of this subpart is to prescribe the conditions under which certain emergency transactions involving the construction and operation of facilities or the sale or transportation of natural gas in interstate commerce are exempt from the requirements of section 7 of the Natural Gas Act. Requirements relating to certain arrangements for the transportation of natural gas, including transportation in emergency situations, are set forth in

Part 284 of this chapter. Requirements relating to certain arrangements for the transportation of emergency natural gas by interstate pipelines on behalf of another interstate pipeline are set forth in this subpart.

(b) It shall be the policy of the Commission to monitor emergency natural gas transactions to the extent necessary to assure compliance with the requirements of this subpart.

§157.46 Definitions.

For purposes of this subpart:

(a) "Emergency" means:

(1) a situation where the gas supply either available or expected to be available would require the interstate pipeline company or distribution company to impose curtailment on its system;

(2) a sudden unanticipated loss of natural gas supply; or

(3) a situation in which the pipeline purchaser, in good faith, determines that immediate action is required or is reasonably anticipatyed to be required for protection of life or health or for maintenance of physical property.

(b) "Qualified seller" means any intrastate pipeline, interstate pipeline, or distribution company.

(c) "Qualified purchaser" means a distribution company or interstate pipeline.

(d) "Interstate pipeline" means any natural gas company as defined in section 2(6) of the Natural Gas Act which is engaged in the transportation by pipeline of natural gas.

(e) "Distribution company" means any person (or governmental entity) who receives natural gas for local distribution and resale to natural gas users.

(f) "Intrastate pipeline" means any person (other than an interstate pipeline) engaged in the transportation by pipeline of natural gas.

(g) "Emergency natural gas" means natural gas sold or transported to alleviate an emergency in accordance with this subpart.

§ 157.47 Exemptions from certificate requirements.

(a) Any qualified seller or other person engaged in the sale of emergency natural gas, or in the construction and operation of facilities for the sale of emergency natural gas, is exempt from the requirements of section 7 of the Natural Gas Act, to the extent that (1) the sale of emergency natural gas or the construction or operation of facilities is necessary to alleviate an emergency and (2) the sale, construction or operation is conducted in accordance with the provisions of this subpart.

(b) Any interstate pipeline transportating emergency natural gas on behalf of any other interstate pipeline is exempt from any other requirement of section 7 of the Natural Gas Act if such transportation is in accordance with this subpart.

(c) Participation in any transaction described in paragraph (a) of this section shall not subject any person to the jurisdiction of the Commission under the Natural Gas Act except to the extent provided in this subpart.

§ 157.48 Terms and conditions of emergency transactions.

(a) General conditions.

(1) Qualified purchasers may purchase emergency natural gas in accordance with the provisions of this subpart but should make every reasonable attempt to conduct their operations in such a manner as to minimize or, if possible, to avoid continuing reliance upon emergency natural gas supplies.

(2) In applying the definition of emergency, flexibility will be accorded interstate pipelines and distribution companies to account for colder than normal winter weather and to accommodate operations under effective curtailment plans. A reasonable relationship should exist between volumes purchased under this subpart and the volumes which are anticipated to be needed during the emergency.

(3) When a distribution company purchases, or a direct sale customer or distribution company requests assignment of emergency natural gas, a responsible official of the distribution company or direct sale customer shall advise the interstate pipeline which will make the deliveries, before commencement of the deliveries, that the emergency exists or is imminent and shall provide the interstate pipeline with such information as may be required within sufficient time to enable the interstate pipeline to make the reports required in §157.51 of this subpart.

(4) After notice and opportunity for a hearing, the Commission may take appropriate action to insure compliance with this subpart. Upon a determination by the Commission that a person has engaged in emergency transactions and has failed to comply with the conditions of this subpart, the Commission may, in addition to any other remedies, declare the person ineligible to engage in further emergency natural gas transactions without prior Commission approval.

(b) Duration.

Emergency transporation under this subpart shall be limited to a period of not more than 60 consecutive calendar days, except in the following cases:

(1) In the event that the Commission determines that there is a natural gas emergency which is national or

regional in scope, emergency transactions may continue for such period as the Commission may by order prescribe.

(2) Emergency transactions under this subpart may be continued for an additional period of not more than 60 consecutive days where (i) fifteen days prior to the end of the initial 60-day period, the qualified purchaser files a petition requesting a waiver so as to permit one additional 60 day period of exemptions describing fully the continued emergency, and (ii) the Commission does not, within the 15-day period, by order, prohibit continuation of the emergency transactions for such additional period.

(c) Cost of facilities.

No cost associated with facilities installed by interstate pipelines in connection with emergency transactions shall be included in the interstate pipeline's jurisdictional rates unless a certificate of public convenience and necessity has been issued authorizing such facilities.

(d) System supply and direct assignment of supplies.

(1) Interstate pipelines may purchase emergency natural gas for general system supply for an emergency.

(2)(i) Interstate pipelines may purchase emergency natural gas and directly assign volumes and costs associated with such gas, including transportation costs, to

its direct sale and distribution company customers faced with an emergency, if the customer or company complies with paragraph (a)(3) of this section.

(ii) An interstate pipeline, at its discretion, may choose to establish a separate account to cover the cost of all assigned emergency purchases and allocate costs in that account to the individual assignment customers on a weighted average cost oasis. If an interstate pipeline purchases emergency gas supplies for direct assignment in quantities greater than related emergency requirements, then the balance may be used for general system supply. It is expected that such excess emergency natural gas volumes will be small and that pipelines will make every reasonable attempt to balance assignments with supplies. Interstate pipelines may also act as brokers or agents without compensation in acquiring and transporting emergency natural gas for distribution companies faced with an emergency and shall cooperate with these companies in arranging for such acquisition and transportation.

§ 157.49 Price ceilings for emergency transactions.

(a)(1) Rates for transportation by an interstate pipeline under this subpart shall be computed in accordance with subparagraph (2) of this paragraph. Sales by interstate

pipelines shall be made at rates prescribed in their tariffs, except that if the natural gas is purchased for assignment to particular direct customers or distribution companies, the natural gas will be priced to recover the cost of purchased gas plus transportation costs as provided in subparagraph (2) of this paragraph.

(2)(i) If an interstate pipeline has on file with the Commission a transportation rate schedule applicable to transportation arrangements under Subpart A of Part 284, the interstate pipeline shall use the rates contained in tnat schedule.

(ii) if an interstate pipeline does not have on file with the Commission a transportation rate schedule applicable to transportation arrangements under Subpart A of Part 284, the interstate pipeline may elect either:

(A) to base its rates upon the methodology and cost used in designing rates to recover the transmission and related storage costs included in its then effective sales rate schedules; or

(B) to use the rates contained in a transportation rate schedule on file with the Commission which the interstate pipeline determines covers service comparable to transportation service under Subpart A of Part 284.

(b) The Commission will examine the prudence of emergency purchases by interstate pipelines, except that a rebuttable presumption of prudence shall be accorded to the extent that the rates paid do not exceed the maximum lawful price specified in § 271.202 of this chapter.

§ 157.50 Treatment of revenues from assigned volumes.

An interstate pipeline purchasing emergency natural gas for assignment to particular direct customers or distribution companies shall credit the revenues attributable to the sale of the emergency gas less the cost of the purchased gas plus an allowance of 1.0 cent per Mcf for out-of-pocket costs except where the pipeline can show that:

(a) its currently effective rates are based upon billing determinants which include a representative level of sales associated with assigned volumes; or,

(b) its currently effective rates reflect a representative level of revenues associated with sales of assigned volumes which have been credited to the cost of service.

§ 157.51 Reporting requirements for emergency transactions.

(a) Within 48 hours after commencement of deliveries of emergency natural gas, the interstate pipeline shall notify the Commission by telegram of the sale, stating the specific

nature and duration of the emergency; the amount of emergency gency natural gas to be purchased or transported on a daily basis, the name of the seller, transporter, and any person to whom the emergency natural gas is to be assigned; and the price.

(b) For any period during which an interstate pipeline engages in any transaction for emergency natural gas, the interstate pipeline shall file with the Commission, within thirty days after the end of the calendar quarter, whether the transactions are completed or in progress, a sworn statement and four conformed copies thereof, which shall include the following information:

(1) identification of each emergency transaction completed or in progress;

(2) the volumes of emergency natural gas delivered during the quarter under each transaction;

(3) the total revenue or other compensation received by each seller for each emergency transaction during the quarter.

(4) the total amount of revenue or other compensation received for each emergency transaction during the quarter;

(5) the charges and the methods by which the pipeline determined compensation for the transportation of assigned emergency gas;

(6) information relied on to determine eligibility for each transaction;

(7) the volumes of emergency natural gas included in system supply for pipeline emergencies;

(8) a statement from a responsible company official attesting that the activities of the interstate pipeline were carried out in accordance with the requirements of this subpart and to the best of his or her knowledge, an emergency did exist or was reasonably anticipated, and a sworn statement from a responsible company official of each purchasing distribution company or each direct sale customer or distribution company which requested the assignment of mergency supplies describing the emergency circumstances as required by § 157.48(a)(3).

§ 157.52 Waiver of requirements for emergency transactions.

The Commission may by order waive the requirements of this subpart in connection with any emergency transaction to the extent required by the public interest.

SUBPART D - EXEMPTION OF NATURAL GAS SERVICE FOR DRILLING, TESTING, OR PURGING FROM CERTIFICATE REQUIREMENTS

§ 157.53 Drilling of gas or oil wells and testing or purging of new natural gas pipeline facilities.

(a) Construction and operation of facilities necessary to render direct natural gas service for use in the drilling of gas or oil wells or for the use in the testing and purging of new natural gas pipeline facilities are exempted from the certificate requirements of section 7(c) of the Natural Gas Act, when the construction and operation of such facilities are conducted in accordance with paragraph (b) of this section.

(b) Operations undertaken to render direct natural gas service shall be terminated upon the completion of the well or the purging or testing of the pipeline facilities. Persons undertaking any construction or operation of facilities or service under this section shall file an original and two copies of an annual statement, by February 1 of each year, describing their activities hereunder.

3. Chapter I of Title 18 is amended by adding new Subchapters H and I to read as follows:

SUBCHAPTER H - PRODUCER REGULATION UNDER NATURAL GAS POLICY ACT OF 1978

Part

270 - Rules generally applicable to producer regulation.
271 - Ceiling prices.
272 - [Reserved]
273 - Collection authority; refunds.
274 - Determinations by jurisdictional agencies.
275 - Commission determinations and review of jurisdictional agency determinations.
276 - Reports.

PART 270 - RULES GENERALLY APPLICABLE TO PRODUCER REGULATION

Subpart A - General Rules

Sec.

270.101 Application of ceiling prices to first sales of natural gas.
270.102 Definitions.
270.103 Jurisdictional agency.
270.104 Effective date.

§ 270.101 Application of ceiling prices to first sales of natural gas.

(a) Maximum lawful price. It is unlawful for any person to sell natural gas at a first sale price in excess of the highest maximum lawful price applicable to such gas under Part 271.

(b) Effect of maximum lawful price on contract price. If the price established under a contract for the first sale of natural gas does not exceed the applicable maximum lawful

price, then such maximum lawful price does not supersede or nullify the effectiveness of the price established under such contract.

(c) Maximum lawful prices requiring jurisdictional agency determinations. Except to the extent that a seller is authorized to make interim collection under Part 273, the prices specified in the following subparts of part 271 apply to a first sale of natural gas only if the jurisdictional agency determines, in accordance with Parts 274 and 275, that such gas qualifies under such subpart:

(1) Subpart B (relating to new natural gas and certain OCS gas)

(2) Subpart C (relating to new onshore production wells)

(3) Subpart G (relating to high cost natural gas) and

(4) Subpart H (relating to stripper well natural gas)

(d) Other categories of natural gas.

(1) The maximum lawful prices under Subpart D of Part 271 (relating to committed or dedicated gas) apply to a first sale to the extent provided in such subpart, if the applicable filing requirements under §§ 154.92 and 154.94 are met.

(2) The maximum lawful prices under Subparts E, F, and I of Part 271 (relating to existing intrastate contracts, intrastate rollover contracts, and certain other categories of natural gas) apply to first sales of natural gas without requirement of a prior determination by the Commission or a jurisdictional agency.

(e) Refund obligations. Any collection of a first sale price under this subchapter is subject to any refund obligation which may be applicable under Part 273.

§ 270.102 Definitions.

(a) NGPA definitions. Terms defined in the NGPA shall have the same meaning for purposes of this subchapter as they have under the NGPA, unless further defined in this subchapter.

(b) Subchapter H definitions. For purposes of this subchapter:

(1) "NGPA" means the Natural Gas Policy Act of 1978.

(2) "British thermal unit" or "Btu" means the quantity of heat required to raise the temperature of one pound avoirdupois of pure water from 58.5 degrees to 59.5 degrees Fahrenheit. For the purposes of this subchapter, the standard

for measuring the heat value of natural gas is Btu's per cubic foot saturated with water at 60 degrees Fahrenheit and 14.73 psia.

(3) "MMBtu" means million British thermal units.

(4) "Production in commercial quantities" means production of natural gas from a well or reservoir and either sold and delivered to one other than the operator, or retained by the operator or any owner of the production at severance for beneficial economic use, except that natural gas used for the testing of such wells or for other field uses which are production related shall not be considered produced in commercial quantities. Sale and delivery or production for the operator's or other owner's beneficial economic use may be evidenced by any of the following:

(i) payment of severance taxes;

(ii) payment of royalties;

(iii) production reports filed with a jurisdictional agency;

(iv) a sales contract together with verification by a purchaser that gas had been delivered and paid for under the contract; or

(v) any other substantial evidence that production has been sold and delivered or retained for the beneficial use of the operator or other owner of production at severance.

(5) "Crude oil" means a mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.

(6) "Surface location" means the point on the earth's surface from which drilling of a well is commenced, except that in the case of a well drilled in permanent surface waters, surface location means the point of penetration of the earth's surface immediately below the water's surface, beneath a floating or fixed drilling structure.

(7) "OCS" means the Outer Continental Shelf as defined in Section 2(35) of the NGPA.

(8) "Existing intrastate contract" means any intrastate contract for the first sale of natural gas in existence on November 8, 1978. A contract is in existence on the date of enactment if on November 8, 1978, there is a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty.

(9) "Successor to an existing contract" means any intrastate contract, other than an intrastate rollover contract, entered into on or after November 9, 1978, for the first sale of natural gas which was previously subject to an existing contract, whether or not there is an identity of parties or terms with those of such existing contract. The term "successor to an existing contract" includes a contract the primary term of which has not expired but which has been assigned to a different party in interest. For the purposes of this subchapter "existing intrastate contract" includes "successors to an existing contract" and "successors to an existing intrastate contract".

(10) "Intrastate contract" means any contract applicable to the sale of natural gas which was not committed or dedicated to interstate commerce on November 8, 1978.

(11) "Intrastate rollover contract" means any contract, entered into on or after November 9, 1978, for the first sale of natural gas that was previously subject to an existing intrastate contract which expired at the end of a fixed term (not including any extension thereof taking effect on or after November 9, 1978), specified by the provisions of such existing contract, as such contract was

in effect on November 9, 1978, whether or not there is an identity of parties or terms with those of such existing contract.

§ 270.103 Jurisdictional agency.

(a) Definition. Except as provided in paragraph (b), "jurisdictional agency" means:

(1) With respect to a well on the OCS, the following offices of, the United States Geological Survey:

Area Oil & Gas Supervisor
Suite 336
3301 N. Causeway Blvd.
Metairie, LA 70010

Area Oil & Gas Supervisor
Atlantic OCS Operations
1725 K Street, NW, Suite 204
Wash., DC 20244

(2) With respect to a well on lands within the boundaries of a State (including offshore State lands and Federal lands), the agency specified in the following table:

State in which well is located	Jurisdictional Agency for wells on	
	Federal	Other lands
Alabama	Area Oil & Gas Supervisor Suite 204 1725 K St., NW Wash., DC 20244	Oil & Gas Supervisor State Oil & Gas Board, Drawer O University, AL 35486

State in which well is located	Jurisdictional Agency for wells on	
	Federal	Other lands
Alaska	Area Oil & Gas Supervisor P.O. Box 259 800 A Street Suite 109 Anchorage, AK 99510	Oil & Gas Conservation Division Department of Natural Resources 3001 Porcupine Drive Anchorage, AK 99504
Arizona	Area Oil & Gas Supervisor 7211 Federal Building 300 N. Los Angeles St. Los Angeles, CA 90012	Oil & Gas Conservation Commission 1645 W. Jefferson Suite 420 Phoenix, AZ 85007
Arkansas	Area Oil & Gas Supervisor 6136 E. 32nd Place Tulsa, OK 74135	Conservation & Commerce Oil and Gas Commission 314 East Oak El Dorado, AR 71730
California	Area Oil & Gas Supervisor 7211 Federal Building 300 N. Los Angeles St. Los Angeles, CA 90012	Department of Conservation Division of Oil & Gas 1416 Ninth St., Rm 1316 Sacramento, CA 95814
Colorado	Area Oil & Gas Supervisor P.O. Drawer 1857 Federal Building & U.S. Courthouse Richardson Ave. at 5th Street Roswell, NM 88201 AND Area Oil & Gas Supervisor P.O. Box 2859 2002 Federal Building & Post Office Casper, WY 82602	Oil & Gas Conservation Commission 1313 Sherman Street Room 721 Denver, CO 80203

State in which well is located	Jurisdictional Agency for wells on Federal	Other lands
Florida	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Administrator of Oil & Gas Bureau of Geology Department of Natural Resources 903 W. Tennessee Street Tallahassee, FL 32304
Georgia	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Natural Resources Geologic & Water Resources Division 19 Martin Luther King Drive, SW Atlanta, GA 30334
Idaho	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Idaho Public Utilities Commission Statehouse Mail Boise, ID 83720
Illinois	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Mines and Minerals Oil and Gas Division 704 Stratton Office Building 400 S. Spring Street Springfield, IL 62706
Indiana	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Natural Resources Oil and Gas Division 606 State Office Bldg. 100 N. Senate Avenue Indianapolis, IN 46204

State in which well is located	Jurisdictional Agency for wells on Federal	Other lands
Kansas	Area Oil & Gas Supervisor 6136 East 32nd Place Tulsa, OK 74135	Corporation Commission State Office Building Topeka, KS 66612
Kentucky	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Mines and Minerals Oil and Gas Division Box 680 Lexington, KY 40501
Louisiana	Area Oil & Gas Supervisor 6136 East 32nd Place Tulsa, OK 74135	Office of Conservation Box 44275 Baton Rouge, LA 70804
Maryland	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Energy and Coastal Zone Administration Department of Natural Resources Tawes State Office Bldg. Annapolis, MD 21404
Michigan	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Natural Resources Box 30028 Lansing, MI 48909
Mississippi	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	State Oil and Gas Board Box 1332 Jackson, MS 39205
Montana	Area Oil & Gas Supervisor P.O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Oil and Gas Conservation Division Department of Natural Resources and Conservation 15 Poly Drive Billings, MT 59101

State in which well is located	Jurisdictional Agency for wells on Federal	Other lands
Nebraska	Area Oil & Gas Supervisor P.O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Oil and Gas Conservation Commission Box 399 Sidney, NE 69162
Nevada	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Department of Conservation and Natural Division of Mineral Resources Capitol Complex, 201 S. Fall Street Carson City, NV 89710
New Mexico	Area Oil & Gas Supervisor P.O. Drawer 1857 Federal Bldg. & U.S. Courthouse Richardson Avenue at 5th Street Roswell, NM 88201	Department of Energy and Minerals Oil Conservation Div. Box 2088 Santa Fe, NM 87501
New York	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Environmental Conservation Bureau of Mineral Resources 50 Wolf Road Albany, NY 12233
North Carolina	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Natural Resources and Community Development 512 N. Salisbury Street Raleigh, NC 27611

State in which well is located	Jurisdictional Agency for wells on Federal	Other lands
North Dakota	Area Oil & Gas Supervisor P.O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Geological Survey University Station Grand Forks, ND 58202
Ohio	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Ohio Department of Natural Resources 1932 Belcher Drive Fountain Square Columbus, OH 43224
Oklahoma	Area Oil & Gas Supervisor 6136 East 32nd Place Tulsa, OK 74135	Corporation Commission Jim Thorpe Building Oklahoma City, OK 73105
Oregon	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Department of Geology & Mineral Industries 1069 State Office Bldg. Portland, OR 97201
Pennsylvania	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Department of Environmental Resources Division of Oil & Gas 1205 Kossman Bldg. 100 Forbes Avenue Pittsburgh, PA 15222
South Carolina	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	South Carolina Public Service Commission P.O. Drawer 11649 Columbia, SC 29211

State in which well is located	Jurisdictional Agency for wells on Federal	Other lands
South Dakota	Area Oil & Gas Supervisor P.O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Geological Survey Science Center, University Vermillion, SD 57069
Tennessee	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Tennessee Department of Conservation G-5 State Office Bldg. Nashville, TN 37219
Texas	Area Oil & Gas Supervisor 6136 East 32nd Place Tulsa, OK 74135 AND Area Oil & Gas Supervisor P.O. Drawer 1857 Federal Bldg. & U.S. Courthouse Richardson Avenue at 5th Street Roswell, NM 88201	Railroad Commission Drawer 12967 Austin, TX 78711
Utah	Area Oil & Gas Supervisor P.O. Drawer 1857 Federal Bldg. & U.S. Courthouse Richardson Avenue at 5th Street Roswell, NM 88201 AND	Division of Oil, Gas and Mining Utah Department of Natural Resources 1588 West North Temple Salt Lake City, UT 84116

State in which well is located	Jurisdictional Agency for wells on Federal	Other lands
Utah (Cont.)	Area Oil & Gas Supervisor P.O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	
Virginia	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Secretary of Commerce and Resources P.O. Box 1475 Richmond, VA 23212
Washington	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Oil and Gas Supervisor Department of Natural Resources Olympia, WA 98504
West Virginia	Area Oil & Gas Supervisor Suite 204 1725 K Street, NW Wash., DC 20244	Oil and Gas Division Department of Mines State Capitol Charleston, WV 25305
Wyoming	Area Oil & Gas Supervisor P.O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Oil and Gas Conservation Commission Box 2640 Casper, WY 82602

(b) Waiver. In the case of any determination to which a waiver under Subpart C of Part 274 is applicable, "jurisdictional agency" means the Commission.

§ 270.104 Effective date.

The provisions of this subchapter apply to deliveries of natural gas on or after December 1, 1978.

SUBPART B - SPECIAL RULES

Sec.

270.201 First sales of natural gas subject to differing maximum lawful prices.
270.202 Resales.
270.203 First sales of natural gas attributable to pipeline or distributor production.
270.204 Btu content per unit volume of natural gas.

§ 270.201 First sale of natural gas subject to differing maximum lawful prices.

In the case of a first sale of natural gas which is produced from wells, properties, or reservoirs which are subject to differing applicable maximum lawful prices, and which is sold at a single price, the maximum lawful price for such sale shall be the average of the maximum lawful price applicable to each of the wells, properties, or reservoirs (as the case may be) from which such gas is produced, weighted according to the respective volumes of gas from each such well, property, or reservoir.

§ 270.202 Resales.

(a) General rule. Unless a higher maximum lawful price is applicable under paragraph (b), the maximum lawful prices under this subchapter apply to first sales which are resales in the same manner as such maximum lawful prices apply to other first sales.

(b) Ceiling price based on prior sale. A reseller may collect a maximum lawful price for a first sale which is a resale, equal to:

(1) in the case of gas which when sold to the reseller was subject to a single maximum lawful price, the maximum lawful price applicable to the gas sold to the reseller, or

(2) in the case of gas which when sold to the reseller was subject to more than one maximum lawful price, the average of the maximum lawful price applicable to the gas sold to the reseller (weighted according to the volumes of the purchased gas that are subject to the different maximum lawful prices).

(c) Special rule for interim collections.

(1) If the price charged and collected for a sale to a reseller is charged and collected under the authority of Part 273 (relating to interim collection), then:

(i) the price authorized to be collected by Part 273 shall be treated as a maximum lawful price for purposes of paragraph (b), and

(ii) the price charged and collected by the reseller shall be subject to the same refund conditions as are imposed

on the person who sold the natural gas to the reseller under Part 273.

(2) The reseller is not obligated by Part 273 to make any filings with the Commission if the person who sold the natural gas to the reseller has made the filings required by Part 273.

(d) Allowances. A resale of natural gas shall not be considered to exceed any maximum lawful price established in paragraph (a) or (b) of this section if it exceeds such price to the extent necessary to recover State severance taxes or production-related costs approved by the Commission pursuant to Subpart K of Part 271.

(e) Adjustments. Pursuant to section 502(c) of the NGPA, any person may apply to the Commission for an adjustment of the maximum lawful price in paragraph (a) or (b) of this section on the grounds that such price results in special hardship, inequity or an unfair distribution of burdens.

(f) Definition. For purposes of this section, a "resale" of natural gas is the sale of natural gas, all or a portion of which was both purchased and resold in transactions which are first sales as defined in the NGPA.

A "reseller" of natural gas is the seller in a resale of such gas.

(g) Record retention. Resellers shall maintain such records as are sufficient to demonstrate that prices charged in connection with resales of natural gas do not exceed the maximum lawful prices prescribed in this section. Such records shall include:

(1) a record of each resale by the reseller, including the identity of the purchaser and the volume and price of such sale;

(2) a record of all volumes purchased by the reseller for resale and the prices paid for such volumes;

(3) a copy of each contract covering the purchase and sale of natural gas resold; and

(4) a record of the method by which the reseller computes the maximum lawful price applicable to each resale and the documents relied on to make the computations.

(h) Period for keeping records. Each reseller required to maintain records under this section shall maintain and preserve such records for at least three years after the date of the relevant transaction or event.

§ 270.203 First sales of natural gas attributable to pipeline or distributor production.

(a) Attribution rule. For purposes of applying section 2(21)(B) of the NGPA, a sale by a pipeline or distributor shall not be considered to be attributable to volumes of natural gas produced by such pipeline or distributor (or any affiliate thereof), if:

(1) such pipeline or distributor is subject to rate regulation by the Commission or by a state agency; and

(2) the Commission or state agency, in regulating the rates of such pipeline or distributor, either:

(i) regulates the costs of such volumes of gas on a cost-of-service basis, or

(ii) sets the price at which such pipeline or distributor sells such volumes by reference to the average cost of gas acquired by such pipeline or distributor, and allows the costs of such volumes of gas as purchased gas cost, or operating expenses, only to the extent that such costs do not exceed the applicable maximum lawful price under the NGPA.

(b) Definitions. For purposes of this section:

(1) "Pipeline or distributor" means an interstate pipeline, an intrastate pipeline, a local distribution company, or an affiliate of any of the above.

(2) "State agency" means a State, a political subdivision of a State, or an agency or instrumentality of either.

§ 270.204 Btu content per unit volume of natural gas.

For purposes of determining the number of Btu's per unit volume of natural gas, the Btu content of one cubic foot of natural gas is the number of Btu's produced by the combustion, at constant pressure, of the amount of gas which would occupy a volume of 1.0 cubic foot at a temperature of 60 degrees Fahrenheit, saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state.

PART 271 - CEILING PRICES

SUBPART A - SUMMARY TABLES AND CALCULATIONS

Sec.

271.101 Ceiling prices for certain categories of natural gas.
271.102 Calculation of inflation adjustment for certain maximum lawful prices.

§ 271.101 Ceiling prices for certain categories of natural gas.

(a) Subparts B through J of this part specify maximum lawful prices applicable to first sales of natural gas. Maximum lawful prices for Subparts B, C, G, H, and I, and for certain categories of natural gas to which Subparts D and F apply, are determined in accordance with price tables which appear in those subparts and which are summarized in the following tables:

Table I - Certain gas not committed or dedicated to interstate commerce on November 8, 1978.

(Prices in $/MMBtu)

Subpart A of Part 271	NGPA Section	Category of Gas	Month of Delivery: December 1978	Month of Delivery: January 1979
B	102	New Natural Gas, Certain OCS Gas	$2.078	$2.096
C	103	New Onshore Production Wells	1.969	1.980
G	107	High Cost (below 15,000 only)	2.078	2.096
H	108	Stripper	2.224	2.243
I	109	Not Otherwise Covered	1.630	1.639

Table II - Certain gas committed or dedicated to interstate commerce on November 8, 1978.

(Prices in $/MMBtu)

Subpart of Part 271	NGPA Section	Category of Natural Gas		Price for Month of Delivery: December 1978	Price for Month of Delivery: January 1979
D	104, 109(a)(2)	Post-1974 gas	All producers	1.630	1.639
D	104	1973-1974 biennium gas	Small producer	1.379	1.387
			Large producer	1.058	1.064
		Rollover contract gas	Small producer	0.702	0.715
D	106(a)		Large producer	0.603	0.607
		Replacement contract gas or recompletion gas	Small producer	0.771	0.775
			Large producer	0.593	0.596
		Flowing gas	Small producer	0.393	0.395
			Large producer	0.332	0.334
D	104	Permian Basin gas	Small producer	0.462	0.465
			Large producer	0.405	0.407
		Rocky Mountain gas	Small producer	0.462	0.465
			Large producer	0.393	0.395
		Appalachian Basin gas (Large Producers only)	North subarea contracts dated prior to 10-8-69	0.344	0.346
			North subarea contracts dated after 10-7-69	0.368	0.370
			South subarea contracts dated after 10-7-69	0.344	0.346

(b) Caveat. The above tables are summaries of applicable maximum lawful prices and may not be relied upon to establish qualification for a particular price. The seller should examine the other provisions of this subchapter in order to ascertain whether the natural gas in question qualifies for the price appearing in the table or some other price.

§ 271.102 Calculation of inflation adjustment for certain maximum lawful prices.

(a) Monthly equivalent of the annual inflation adjustment factor. Maximum lawful prices for certain categories of natural gas to which Subparts D, E, and F apply are determined in accordance with the calculation method described in paragraph (b).

(b) Calculation.

(1) In order to determine the price for a month (after November, 1978) in which natural gas is delivered under a first sale, a calculation is made in the following manner:

(i) Determine the base price applicable in the base month.

(ii) For the month following the base month, multiply the inflation adjustment for such following month by the base price.

(iii) For each succeeding month (through the month of delivery), multiply the inflation adjustment for such succeeding month by the price calculated under this paragraph for the prior month.

(2) The price determined for each month under subparagraph (1) shall be rounded to the nearest mill (rounding to the next highest mill only that fraction which is one-half a mill or greater).

(c) Monthly equivalent of annual inflation adjustment factor. The following table contains the monthly equivalent of the annual inflation adjustment factor for each month beginning with May, 1977, and ending with January, 1979:

Table III - Monthly equivalent of the annual inflation adjustment factor.

Month of Delivery	Factor by which price in preceeding month is multiplied
1977	
May	1.00636
June	1.00636
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978	
January	1.00597
February	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979	
January	1.00581

(d) Definitions. For purposes of this section,

(1) "base price" means:

(i) for maximum lawful prices to be calculated under § 271.402(c)(1) (relating to certain committed or dedicated gas), the just and reasonable rate for April 20, 1977;

(ii) for maximum lawful prices to be calculated under § 271.502(b)(2) (relating to certain existing intrastate contracts), the contract price per MMBtu on November 9, 1978;

(iii) for maximum lawful prices to be calculated under § 271.602(a)(1) (relating to certain rollover contracts), the contract price per MMBtu under the expired contract for the month in which the effective date of the rollover contract occurs.

(2) "base month" means:

(i) April, 1977, for maximum lawful prices under § 271.402(c)(1),

(ii) November, 1978, for maximum lawful prices under § 271.502(b)(2), and

(iii) the month in which the effective date of the rollover contract occurs, for maximum lawful prices under § 271.602(a)(1).

(3) "inflation adjustment" means the monthly equivalent of the annual inflation adjustment factor.

SUBPART B - NEW NATURAL GAS AND CERTAIN NATURAL GAS PRODUCED FROM THE OUTER CONTINENTAL SHELF

Sec.
271.201 Applicability.
271.202 Maximum lawful price.
271.203 Definitions.
271.204 Special rules.

§ 271.201 Applicability.

This subpart implements section 102 of the NGPA and applies to the first sale of:

(a) new natural gas; or

(b) natural gas produced from a new OCS reservoir on an old OCS lease.

§ 271.202 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurred in the calendar month of:	The maximum lawful price is:
December 1978	$ 2.078
January 1979	$ 2.096

§ 271.203 Definitions.

For purposes of this subpart:

(a) "New natural gas" means natural gas which a jurisdictional agency has determined, in accordance with Parts 274 and 275, to be new natural gas (as defined in section 102(c) of the NGPA).

(b) "Natural gas from a new OCS reservoir on an old OCS lease" means natural gas which the jurisdictional agency determines, in accordance with Parts 274 and 275 and under section 102(d)(2), (3), (4) and (5) of the NGPA, to be natural gas produced from a reservoir which is on an old lease on the OCS and which was not discovered before July 27, 1976.

(c) "OCS lease" means a lease of submerged acreage which is entered into with the Secretary of the Interior under the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1331, et seq.).

(d) "New OCS lease" means an OCS lease entered into by the Secretary of the Interior on or after April 20, 1977.

(e) "Old OCS lease" means an OCS lease other than a new OCS lease.

§ 271.204 Special rules.

(a) Special rule for vertical measurement of 1,000 feet between completion locations. For the purpose of determining under section 102(c)(1)(B)(ii) of the NGPA the vertical distance between the deepest marker well completion location and a new well completion location, for which a determination is sought, measurement shall be the true vertical depth from the highest perforation point of such marker well completion location to the highest perforation point in the new well completion location. In the case of any well which is an open-hole completion, measurement shall be from the highest elevation point of the reservoir being produced.

(b) Capable of producing in paying quantities. For purposes of section 102(d)(2)(B)(i) and (ii) of the NGPA, a reservoir is capable of producing in paying quantities if a well completed therein can reasonably be expected to produce natural gas in quantities sufficient to yield revenues in excess of operating costs.

(c) Commercially producible. For purposes of section 102(d)(2)(B)(iii) of the NGPA, a reservoir is commercially producible if a well completed therein can reasonably be expected to produce natural gas in commercial quantities as defined in § 270.102(b)(4).

(d) Suitable facilities. For purposes of section 102(c)(1)(C)(iii)(II) of the NGPA, suitable facilities for the production and delivery of natural gas described in section 102(c)(1)(C)(iii)(I) of the NGPA were in existence on April 20, 1977, if on that date facilities for the production and delivery of natural gas to a pipeline were:

(1) installed; or

(2) substantially installed and additional facilities necessary for such production and delivery were readily available.

SUBPART C - NEW ONSHORE PRODUCTION WELLS

Sec.
271.301 Applicability.
271.302 Maximum lawful price.
271.303 Definition of new, onshore production well.
271.304 Special rule.

§ 271.301 Applicability.

This subpart implements section 103 of the NGPA and applies to the first sale of natural gas produced from a new, onshore production well.

§ 271.302 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurred in the calendar month of:	The maximum lawful price is:
December 1978	$ 1.969
January 1979	$ 1.980

§ 271.303 Definition of new, onshore production well.

For purposes of this subpart, the term "new, onshore production well" means a well which a jurisdictional agency has determined, in accordance with Parts 274 and 275, to be a new onshore production well (as defined in section 103(c) of the NGPA).

§ 271.304 Special rule.

(a) Applicability. This section applies to jurisditional agency determinations with respect to a new well drilled within an existing proration unit.

(b) Waivers. If a jurisdictional agency alters or grants a waiver of any applicable well-spacing requirements prior to the commencement of surface drilling of the well for which a determination is sought, the new well shall be deemed to satisfy any applicable Federal or State well-spacing requirements as required by section 103(c)(2) of the NGPA.

(c) Wells spudded after November 30, 1978. In order for natural gas from a well to qualify for the maximum lawful price under this subpart, the jurisdictional agency must find, prior to commencement of drilling, that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit. Such finding must be explicit and must involve either a redefinition of the boundaries of the previously existing proration unit or an alteration of or exception to otherwise applicable spacing rules.

(d) Wells spudded between February 19, 1977 and November 30, 1978. Upon request of an applicant for a determination for a well subject to this paragraph, the jurisdictional agency shall review the record which was developed prior to the drilling of the well for which the determination is sought. In order for natural gas from such well to qualify for the maximum lawful price under this subpart the jurisdictional agency must demonstrate to the Commission that in proceedings before such agency prior to the commencement of drilling of the well, the jurisdictional agency:

(1) explicitly found that the drilling of the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which could not be effectively and efficiently drained by any existing well within the proration unit; or

(2) in the absence of an explicit finding, implicitly found that the drilling of the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which could not effectively and efficiently drained by any existing well within the proration unit.

(e) Notice of findings. If the jurisdictional agency makes a finding under paragraph (c) or (d)(1) of this

section it shall notify the Commission of such a determination in accordance with § 274.104. If the jurisdictional agency makes a finding under paragraph (d)(2) of this section, it must be based upon the record developed by the jurisdictional agency prior to the commencement of drilling which contains facts which would have supported an explicit finding that the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which could not be effectively and efficiently drained by any existing well within the proration unit. Notice of such a determination shall be forwarded to the Commission in accordance with § 274.104.

SUBPART D - NATURAL GAS COMMITTED OR DEDICATED TO INTERSTATE COMMERCE

Sec.
271.401 Applicability.
271.402 Maximum lawful prices.
271.403 Special rule regarding carrying charge adjustment for advance payments.

§ 271.401 Applicability.

This subpart implements sections 104, and 106(a) of the NGPA and applies to the first sale of natural gas committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate under the Natural Gas Act was in effect on November 8, 1978 for the sale of such gas.

§ 271.402 Maximum lawful prices.

(a) Ceiling prices. Unless a higher rate is applicable under paragraph (c), the maximum lawful price for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

Table II - Certain gas committed or dedicated to interstate commerce on November 8, 1978.

Subpart of Part 271	NGPA Section	Category of Natural Gas		Price per MMBtu In Month of Delivery December 1978	January 1979
D	104	Post-1974 gas	All producers	1.630	1.639
	104	1973-1974 biennium gas	Small producer	1.379	1.387
			Large producer	1.058	1.064
	106(a)	Rollover contract gas	Small producer	0.702	0.715
			Large producer	0.603	0.607
	104	Replacement contract gas or recompletion gas	Small producer	0.771	0.775
			Large producer	0.593	0.596
		Flowing gas	Small producer	0.393	0.395
			Large producer	0.332	0.334
		Permian Basin gas	Small producer	0.462	0.465
			Large producer	0.405	0.407
		Rocky Mountain gas	Small producer	0.462	0.465
			Large producer	0.393	0.395
		Appalachian Basin gas (large producers only)	North subarea contracts dated prior to 10-8-69	0.344	0.346
			North subarea contracts dated after 10-7-69	0.368	0.370
			South subarea contracts dated after 10-7-69	0.344	0.346

(b) Definitions. For the purposes of this section:

(1) "Post-1974 gas" means natural gas to which this subpart applies which is produced from a well the surface drilling of which commenced on or after January 1, 1975.

(2) "1973-1974 biennium gas" means natural gas, to which this subpart applies, other than natural gas described in subparagraph (1)(ii), from a well the surface drilling of which commenced on or after January 1, 1973, and prior to January 1, 1975.

(3) "Interstate rollover gas" means

(i) natural gas to which this subpart applies; and

(ii) natural gas to which to this subpart applies which is sold under a contract which would have been a rollover contract but for the fact that the expiration of the previous contract occurred prior to November 9, 1978.

(4) "Replacement contract gas or recompletion gas" means natural gas to which this subpart applies which is:

(i) sold under a replacement contract which was executed on or after January 1, 1973, but prior to November 9, 1978, where the prior contract expired by its own terms prior to January 1, 1973; or

(ii) sold under a replacement contract executed prior to November 9, 1978, where the prior contract expired by its own terms after January 1, 1973; or

(iii) sold under a contract for the sale of natural gas from a well commenced prior to January 1, 1973, and not sold in interstate commerce prior to January 1, 1973,

(excluding gas sold prior to such date under §§ 2.68, 2.70, 157.22 or 157.29 of this chapter); or

(iv) produced as a result of a completion operation into a different formerly nonproductive reservoir, commenced on or after January 1, 1973, and produced through a well commenced prior to January 1, 1973.

(5) "Permian Basin gas" means natural gas (other than replacement contract or recompletion gas) to which this subpart applies and which is produced in the Permian Basin Area, as defined in FPC Opinion No. 662 (50 F.P.C. 390 at 400-401) and which is sold pursuant to a contract executed on or after October 1, 1968.

(6) "Rocky Mountain gas" means natural gas (other than replacement contract or recompletion gas) to which this subpart applies and which is produced in the Rocky Mountain Area, as defined in § 154.109(b) of this chapter and which is sold pursuant to a contract executed on or after October 1, 1968.

(7) "Appalachian Basin gas" means natural gas (other than replacement contract or recompletion gas) to which this subpart applies and which is produced in either the north subarea or the south subarea of the Appalachian Basin Area, as defined in § 154.107 of this chapter.

(8) "Flowing gas" means natural gas to which this subpart applies (other than natural gas described in the preceding

subparagraphs of this paragraph) produced from a well the surface drilling of which commenced prior to January 1, 1973.

(9) "Small producer" means an independent producer who is not affiliated with a Class A natural gas pipeline company and whose total sales for resale in interstate commerce on a nationwide basis, together with such sales by affiliated parties, did not exceed 10,000,000 Mcf at 14.73 psia during the preceding calendar year.

(10) "Independent producer" means a person who is engaged in the production or gathering of natural gas but who is not engaged in the transportation of natural gas by pipeline (other than gathering).

(11) "Large producer" means an independent producer other than a small producer.

(c) Applicable higher rates.

(1) Any just and reasonable rates applicable to a sale of natural gas higher than those established in paragraph (a) which has been established by the Commission prior to April 20, 1977, under §§ 2.56a(g), 2.56b(h), 2.76, or 2.77 of this chapter, plus the inflation adjustment from April 20, 1977, determined in accordance with § 271.102, shall be the maximum lawful price for such sale.

(2) Any just and reasonable rate for a sale of natural gas which was established by the Commission after April 20, 1977 and before November 9, 1978, shall be the maximum lawful price applicable to such sale if higher than the otherwise applicable rate prescribed under paragraph (a) or (c)(1).

(3) Any seller seeking to charge a rate in excess of the applicable maximum lawful price described in paragraphs (a), or (c)(1) or (c)(2) of this section must first file a petition seeking special relief pursuant to § 1.7(b) of this chapter fully justifying the relief sought. Such seller may not file a rate increase for, or charge or collect any rate in excess of the maximum lawful price otherwise applicable under this section unless the Commission grants its petition for special relief.

§ 271.403 Special rule regarding carrying charge adjustment for advance payments.

The rate prescribed in § 271.402 for post-1974 gas to which Opinion No. 770-A applies shall be subject to a deduction of 83 cents per MMBtu as a carrying charge adjustment if the seller has accepted advance payments on or after 1:00 p.m., EST, November 5, 1976, under an advance payments contract with an interstate pipeline company and such pipeline company has received rate base treatment of such advance payments made.

The resulting adjusted rate shall be employed in the discharge of the obligations of any advance payments after 1:00 p.m. EST, November 5, 1976, for all deliveries until an amount of natural gas has been delivered at the adjusted rate such that the total carrying charge credits equal the amounts lawfully collected by the jurisdictional pipeline company as a result of including the advance payments in rate base.

SUBPART E - SALES UNDER EXISTING INTRASTATE CONTRACTS.

Sec.
271.501 Applicability.
271.502 Maximum lawful prices.
271.503 Filing requirements.
271.504 Definition.
271.505 Special rule.

§ 271.501 Applicability.

This subpart implements section 105 of the NGPA and applies to the first sale of natural gas under an existing intrastate contract or under a successor to an existing contract. This subpart is not applicable to sales made under an intrastate rollover contract as defined in Subpart A.

§ 271.502 Maximum lawful prices.

(a) November 9, 1978, contract price at or below $2.060 per MMBtu. In the case of a first sale of natural gas to which this subpart applies, if the contract price applicable on November 9, 1978, was not more than $2.060 per MMBtu, the maximum lawful price for natural gas delivered in any month shall be the lower of:

(1) the contract price per MMBtu for such month under the terms of the existing intrastate contract in effect on November 9, 1978, or

(2) the maximum lawful price per MMBtu for such month under § 271.202 (relating to new natural gas).

(b) November 9, 1978, contract price greater than $2.060 per MMBtu. In the case of a first sale of natural gas to which this subpart applies, if the contract price applicable on November 9, 1978, was greater than $2.060 per MMBtu, the maximum lawful price for natural gas delivered in any month shall be the higher of:

(1) the maximum lawful price per MMBtu for such month under § 271.202 (relating to new natural gas); or

(2) the contract price per MMBtu on November 9, 1978, adjusted for inflation in accordance with § 271.102 of this subchapter.

§ 271.503 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.101.

§ 271.504 Definition.

For purposes of this subpart "contract price," when used with respect to any specific date and contract, means (a) the price paid per MMBtu under a contract for deliveries of natural gas occurring on that date; or (b) if no deliveries of natural gas occurred under such contract on that date, the price per MMBtu that would have been paid had such deliveries occurred on that date. If the contract contains a take-or-pay

clause, the contract price shall be determined as if volumes obligated to be taken were taken.

§ 271.505 Special rule.

For purposes of this subchapter:

(a) No modification of an existing contract or successor to an existing contract executed after November 9, 1978, may:

(1) alter the terms of the existing contract in a manner which has the effect of requiring the purchaser to bear any greater costs than the purchaser would have borne under the existing contract, or

(2) provide for an earlier date for deliveries than provided for under the existing contract.

(b) Except as provided in paragraph (a), any agreement or alteration of terms or legal obligations of the parties to an existing intrastate contract or to a successor to an existing contract may change the non-price terms from those in the existing contract or change the identity of the parties; but no such agreement or alteration may result in the alteration of the contract price from that of the existing contract so as to provide a higher contract price.

SUBPART F - INTRASTATE ROLLOVER CONTRACTS

Sec.
271.601 Applicability.
271.602 Maximum lawful price.
271.603 Filing requirements.
271.604 Special rule.

§ 271.601 Applicability.

This subpart implements section 106(b) of the NGPA and applies to the first sale of natural gas under an intrastate rollover contract.

§ 271.602 Maximum lawful price.

(a) The maximum lawful price for a first sale of natural gas under an intrastate rollover contract to which section 106(b)(1) of the NGPA applies shall be the higher of:

(1)(i) the maximum lawful price paid under the expired contract, per MMBtu, in the case of the month in which the effective date of such rollover contract occurs; and

(ii) in the case of any month thereafter, the maximum lawful price, per MMBtu, prescribed under this paragraph for the preceding month adjusted for inflation in accordance with § 271.102; or

(2) the amount determined under the following table:

If delivery occurs in:	The maximum lawful price per MMBtu is:
December, 1978	$1.121
January, 1979	1.128

(b) The maximum lawful price per MMBtu, for natural gas to which section 106(b)(2) of the NGPA (relating to certain State or Indian natural gas production interests) applies shall be the amount determined in accordance with the following table in lieu of the amount determined under the table under paragraph (a)(2):

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$2.078
January 1979	2.096

§ 271.603 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.102.

§ 271.604 Special rule.

Except in the case of an increase in the contract price to the maximum lawful price specified in § 271.602(a)(2) or (b), for purposes of this subchapter, no intrastate rollover contract may:

(i) contain terms which differ from the terms of the expired contract and which have the effect of requiring the purchaser to bear any greater costs than the purchaser would have borne under the expired contract; or

(ii) provide for deliveries at an earlier date than would have been provided for under the existing contract.

SUBPART G - HIGH COST NATURAL GAS

Sec.
271.701 Applicability.
271.702 Maximum lawful price.
271.703 Definition of deep, high-cost natural gas.
271.704 Special rule.

§ 271.701 Applicability.

This subpart implements section 107(a) of the NGPA and applies to the first sale of natural gas produced from deep high-cost wells.

§ 271.702 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurred in the calendar month of:	The maximum lawful price is:
December 1978	$ 2.078
January 1979	$ 2.096

§ 271.703 Definition of deep, high-cost natural gas.

For purposes of this subpart, natural gas is produced from a deep, high-cost well if a jurisdictional agency determines, in accordance with Parts 274 and 275, that such natural gas is produced from any well the surface drilling of which began on or after February 19, 1977,

if such production is from a completion location which is located at a depth of more than 15,000 feet.

§ 271.704 Special rule.

For purposes of determining depth under section 107(c)(1) of the NGPA, measurement shall be the true vertical depth from the surface of the ground to the highest perforation point in the completion location.

SUBPART H - STRIPPER WELL NATURAL GAS

Sec.
271.801 Applicability.
271.802 Maximum lawful price.
271.803 Definitions.
271.804 Special rules.
271.805 Continuing qualification.
271.806 Jurisdictional agency determinations and Commission review.

§ 271.801 Applicability.

This subpart implements section 108 of the NGPA and applies to any first sale of natural gas which a jurisdictional agency determines is produced from a stripper well.

§ 271.802 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurred in the calendar month of:	The maximum lawful price is:
December 1978	$2.224
January 1979	$2.243

§ 271.803 Definitions.

For purposes of this subpart:

(a) "Recognized enhanced recovery techniques" means processes or equipment, or both, which when performed or installed, increase the ultimate recovery of gas from a well.

Processes qualifying as enhanced recovery techniques include mechanical as well as chemical stimulation of the reservoir formation. Equipment may include items installed in the well bore or on the surface. Normal well maintenance, repair, or replacement of equipment or facilities does not qualify as enhanced recovery techniques.

(b) "Nonassociated natural gas" means natural gas produced from a well which a jurisdictional agency determines produced an average of no more than one barrel of oil per production day during the production period upon which the determination is based.

§ 271.804 Special rules.

(a) Rate of production. For purposes of determining the rate of production from a well for which a stripper well determination is sought, the total volume of natural gas produced from the well shall constitute its daily production regardless of whether the well is completed in more than one interval or the production is separately metered from separate intervals.

(b) Averaging of production. If a determination of stripper well status is sought with respect to wells which are not individually metered, rates of production of natural gas and oil may, in the absence of other reliable evidence, be averaged equally among the non-metered wells.

(c) Applications for determinations. Applications under this subpart shall be based on a 90-day production period ending within 120 days prior to the date on which the application is filed.

(d) Maximum efficient rate of flow. (1) In the absence of applicable recognized conservation practices established by a jurisdictional agency for determining the maximum efficient rate of flow of wells producing natural gas, a well which has produced nonassociated natural gas at an average rate of 60 Mcf per day or less for a 90-day production period is presumed to have produced at its maximum efficient rate of flow if during the 12-month period ending concurrently with the 90-day production period which is the basis for the application under paragraph (c), such well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day; or

(2) If the production data described in subparagraph (1) of this paragraph are not available, the jurisdictional agency shall, if the well has produced nonassociated natural gas at an average rate of 60 Mcf or less for a 90-day production period:

(i) make the determination as to whether the well produced at its maximum efficient rate of flow based upon other substantial evidence such as flow tests which measure the capability of the well to produce natural gas under normal operating conditions; or

(ii) defer making an affirmative determination and designate a 12-month period during which the applicant can secure the data described in subparagraph (1) of this paragraph, allowing the applicant 30 days from the end of such period to submit the data.

(3) The jurisdictional agency shall make a negative determination as to eligibility and give notice thereof to the applicant, any identified purchasers and the Commission if:

(i) the applicant fails to submit production data pursuant to subparagraph (2)(ii) of this paragraph, within the time allowed; or

(ii) the production data submitted by the applicant indicate that for the 12-month period, the well produced nonassociated natural gas at a rate which exceeded an average of 60 Mcf per production day.

(4) Upon submission of an application which is to be considered pursuant to subparagraph (2)(ii) of this paragraph, the applicant, if permitted to do so by contract, may collect the maximum lawful price provided in § 271.802 from the date of filing until the date of a final determination pursuant to this subpart, subject to the interim collection requirements in Part 273.

(e) Seasonally affected wells. (1) If together with a petition for qualification as a stripper well, the applicant submits to the jurisdictional agency production reports for a period of at least 24 months ending concurrently with the 90-day production period which is the basis for the application under paragraph (c), and if such reports demonstrate that the well is subject to seasonal fluctuations which temporarily increase average production above 60 Mcf per production day, the jurisdictional agency may, upon request, designate the well as "seasonally affected." Such designation shall be granted by the jurisdictional agency only if it finds that the seasonal fluctuations have not and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period.

(2) If at any time subsequent to a final determination of stripper well status, the operator acquires production reports for a period of 24 consecutive months which demonstrate that the well is seasonally affected, a petition may be filed with the jurisdictional agency for designation as a seasonally affected well unless the average rate of production exceeds 60 Mcf per production day for any 12-month period.

(3) If a well is designated as seasonally affected, the operator of such well and the purchaser of production

from such well are exempt from the filing requirements of § 274.805 unless the average rate of production exceeds 60 Mcf per day for a 12-month period.

§ 271.805 Continuing qualification.

(a)(1) Unless exempt under § 271.804(e)(3), the operator or any purchaser of natural gas shall give written notice if:

(A) such well produces nonassociated natural gas at a rate exceeding an average of 60 Mcf per production day for any 90-day production period; or

(B) such well which has been designated a seasonally affected well produces at an average rate in excess of 60 Mcf per day for a 12-month production period.

(2) Such notice shall, as appropriate, be given to the jurisdictional agency, the Commission, and any purchaser. Except as provided in paragraph (b) of this section, such notice shall terminate the right of any seller to continue the collection of the maximum lawful price set forth in § 271.802 for natural gas from the well identified in the notice.

(b) The operator may, at the same time the notice described in paragraph (a)(1) of this section is filed, file a petition with the jurisdictional agency for a determination under § 271.806 that the increased production of

nonassociated natural gas is the result of the application of enhanced recovery techniques or, if the well has not been designated as seasonally affected, the result of seasonal fluctuations. A copy of the petition shall be provided to the jurisdictional agency, the Commission, and the purchaser together with the notice under paragraph (a)(1) of this section.

(c) Any notice required by this section shall be made within 45 days after the last day of the 90-day or the 12-month production period in which the increased production of natural gas occurred.

(d) If the notice pursuant to paragraph (a)(1) of this section is filed by a purchaser, an operator shall have 30 days from the date of the notice within which to oppose the allegation or to seek a determination from the jurisdictional agency that the increase in production is the result of recognized enhanced recovery techniques or seasonal fluctuations. Unless the operator of a well, within 30 days of such notice, files a petition with a jurisdictional agency as provided in paragraph (b) of this section, a well for which notice is given under paragraph (a)(1) of this section shall immediately be disqualified as a stripper well and the right of any seller to collect the maximum lawful price set forth in § 271.802 shall terminate as of the last

day of the 90-day or the 12-month production period described in the notice.

(e) If an operator files a petition with a jurisdictional agency as pursuant to paragraphs (b) or (d) of this section, further collection of the maximum lawful price set forth in § 271.802 shall be made subject to refund from the last day of the 90-day or the 12-month production period described in the notice under paragraph (a)(1) of this section.

(f) If subsequent to the filing of a petition it is determined that an increase in production of natural gas is the result of recognized enhanced recovery techniques, neither the operator nor the purchaser shall be obligated to report average production levels above 60 Mcf per day during any 90-day production period unless the increased production results from a cause other than recognized enhanced recovery techniques determined to have been used.

§ 271.806 Jurisdictional agency determinations and Commission review.

(a) Upon receipt of a petition to designate a well as a seasonally affected well pursuant to § 271.804(c) or an application to determine that production in excess of an average of 60 Mcf per production day for any 90-day production period was due to enhanced recovery techniques, the

jurisdictional agency shall treat the petition or application as if it were an application for an initial determination and follow the applicable provisions of Subpart A of Part 274.

(b) Upon receipt of notice of a determination under paragraph (a), the Commission will review such a determination pursuant to the applicable provisions of Subpart B of Part 275.

(c) A jurisdictional agency, when making a determination under § 271.806 (relating to production in excess of 60 Mcf per production day resulting from the application of recognized enhanced recovery techniques), may seek a declaratory order from the Commission that a process (or type of process) or the installation of equipment (or type of equipment) qualifies as recognized enhanced recovery techniques as defined in § 271.803(a) of this subpart.

SUBPART I - OTHER CATEGORIES OF NATURAL GAS

Sec.
271.901 Applicability.
271.902 Maximum lawful price.
271.903 Filing requirements.
271.904 Special rule.

§ 271.901 Applicability.

This subpart implements section 109 of the NGPA and applies to a first sale of natural gas that is not covered by any maximum lawful price under section 102, 103, 104, 105, 106, 107, or 108 of the NGPA.

§ 271.902 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurred in the calendar month of:	The maximum lawful price is:
December, 1978	$1.630
January, 1979	1.639

§ 271.903 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.103.

§ 271.904 Special rule.

This subpart applies to the following classes of first sales of natural gas only to the extent such first sales

are not covered by any maximum lawful price under section 102, 103, 104, 105, 106, 107, or 108 of the NGPA if such natural gas:

(a) is produced from any new well not otherwise qualifying for a higher maximum lawful price under this Title I of the NGPA;

(b) is committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate under the Natural Gas Act was not in effect on such date for the first sale of such natural gas;

(c) was not committed or dedicated to interstate commerce on November 8, 1978, and was not subject to an existing contract on such day; or

(d) is produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

SUBPART J - [RESERVED]

SUBPART K - ADJUSTMENTS FOR STATE SEVERANCE TAXES AND CERTAIN PRODUCTION-RELATED COSTS

Sec.
271.1100 Scope and applicability.
271.1101 Definitions.
271.1102 State severance taxes.
271.1103 Record retention.
271.1104 Production-related costs.
271.1105 Adjustments.

§ 271.1100 Scope and applicability.

(a)(1) This subpart prescribes regulations under which a price for a first sale of natural gas shall not be considered to exceed the applicable maximum lawful prices set forth in Part 271 if such first sale price exceeds the maximum lawful price to the extent necessary to recover:

(1) State severance taxes; and

(2) production-related costs approved by order of the Commission.

(b) Sections 271.1104 and 271.1105 shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

§ 271.1101 Definitions.

(a)(1) Except as provided in subparagraph (2), the term "State severance tax" as used in this subpart means any severance, production, or similar tax, fee, or other levy imposed on the production of natural gas:

(i) by any State;

(ii) by any Indian tribe recognized as eligible for services provided by the Secretary of the Interior to Indians; or

(iii) by any political subdivision of a State if the authority to impose such tax, fee, or other levy is granted to such political subdivision under State law.

(2) The term "State severance tax" does not include any amount of tax which results from a provision of state law enacted on or after December 1, 1977, unless such provision of law is equally applicable to natural gas produced in such State and delivered in interstate commerce and to natural gas produced in such State and not so delivered.

(b) The term "production-related costs" as used in this subpart means costs of compressing, gathering, processing, treating, liquifaction, conditioning, or transporting natural gas, or other similar costs.

§ 271.1102 State severance taxes.

(a) Except as provided in paragraph (b) of this section, the price for any first sale of natural gas shall not be considered to have exceeded the maximum lawful price applicable to that sale as set forth in this part if such first sale price exceeds the maximum lawful price to the extent necessary to recover State severance taxes borne by the seller.

(b) The maximum lawful prices prescribed under this part for natural gas produced from the Permian Basin area include State severance taxes in the amount of 2.6 cents for large producers and 3.05 cents for small producers. To the extent maximum lawful prices are established by reference to the Permian Basin area rate, only amounts of State severance tax in excess of those amounts already included may be considered under paragraph (a) of this section.

§ 271.1103 Record retention.

A seller in a first sale in which the price includes State severance taxes permitted under this section shall retain a record of the sale which shall identify the seller, and shall retain such other records as are necessary to demonstrate that such seller has borne the amount of State

severance taxes included in the sale price. Such records shall be preserved for at least three years from the date on which the sale occurred.

§ 271.1104 Production-related costs.

(a) General rule. The Commission will entertain applications for a determination that the maximum lawful price applicable to a first sale of natural gas shall not be considered to be exceeded as a result of the addition to such price of an amount expended for production-related costs only as permitted by this section.

(b) Exclusion of certain natural gas.

Applications under paragraph (a) of this section will not be considered by the Commission if the natural gas for which the determination is sought:

(1) was committed or dedicated to interstate commerce on November 8, 1978, and is gas for which there was a just and reasonable rate in effect on that date; or

(2) is subject to an existing intrastate contract, an intrastate rollover contract or a successor to an existing contract.

(c) Costs for gathering; liquifaction; transportation, and compression. Except as provided in paragraph (b) of this section, applications under paragraph (a) of this

section will be entertained by the Commission respecting costs incurred:

(1) compression; and

(2) gathering, liquification, or transportation if such activities take place off-lease.

(d) Other production-related costs.

(1) Except as provided in paragraph (b) of this section and in subparagraph (2) of this paragraph, the Commission will entertain applications under paragraph (a) of this section only with respect to production-related costs which exceed any amount expended to meet the following standards:

(i) total sulphur (grains per 100 cf.) 20

(ii) hydrogen sulphide (grains per 100 cf.) . . 1

(iii) water (pounds per MMcf) 7

(iv) carbon dioxide (percent by volume) 3

(v) impurities including oxygen, nitrogen, dust, dirt, gum, or other impurities in sufficient amounts to require the buyer to incur costs to eliminate such impurities to meet pipeline requirements.

(2) Subject to paragraph (b) of this section, the Commission will entertain applications for costs necessary to meet or exceed the standards in subparagraph (1) of this

paragraph with respect to first sales of natural gas to any person for use by such person.

(e) Applications. Applications made to the Commission pursuant to this section shall be under oath and shall include the following information:

(1) identification of the maximum lawful price applicable to the first sale of the natural gas under Part 271;

(2) documents supporting the identification of the applicable maximum lawful price, including copies of any determinations by a jurisdictional agency or the Commission or copies of applications made for such determinations;

(3) a summary of the contract provisions which contain the obligations of the parties with respect to production-related costs.

(4) to the extent that the applicant has purchased the natural gas which is the subject of an application under this paragraph, documentation of the price paid by the applicant for such gas;

(5) the specific costs sought to be recovered by the applicant and a description of the method used to compute such costs; and

(6) the circumstances which make it necessary for the applicant to collect any amount in excess of the maximum lawful price provided for under Part 271.

(f) Additional information. The Commission may, upon receipt of an application made under this section, require the submission of additional information and hold or cause to be held such other proceedings as it deems necessary or appropriate.

§ 271.1105 Adjustments.

Pursuant to section 502(c) of the NGPA, any person may apply to the Commission for an adjustment on the grounds that the operation of § 271.1103 results in special hardship, inequity, or an unfair distribution of costs to such person.

PART 273 - COLLECTION AUTHORITY; REFUNDS

SUBPART A - GENERAL PROVISIONS

Sec.
273.101 Private contractual rights.
273.102 Definition of final determination.
273.103 Annual report of collections and refunds.

§ 273.101 Private contractual rights.

Authorization by this part to collect a price for natural gas does not affect any person's contractual right to purchase natural gas at a lower price.

§ 273.102 Definition of final determination.

For purposes of this part, a determination by a jurisdictional agency of eligibility to collect a maximum lawful price under Subparts B, C, G, or H of Part 271 is final at such time as such determination is no longer subject to:

(a) remand or reversal (other than on grounds specified in section 503(d)(1)(A) or (B) of the NGPA) by the Commission under Part 275; or

(b) judicial review in the Court of Appeals under section 503(b)(4)(B) of the NGPA.

§ 273.103 Annual report of collections and refunds.

(a) General rule. A seller which makes any first sale of natural gas for which a price authorized by this part is charged or collected shall file an annual report of all collections and refunds under this part for all such first sales, beginning with the period from December 1, 1978 through December 31, 1979, and for each calendar year thereafter until all collections and refunds under this part for such first sales have been reported fully. An original and 14 copies of each annual report shall be filed with the Commission on or before April 1st of the next year.

(b) Contents. The annual report shall be filed in accordance with forms and instructions prescribed by the Commission and shall include:

(1) all collections for each first sale for which a price authorized by this part is charged or collected, identifying the well from which such sale is made and the application for or determination of eligibility for that well;

(2) the portions of such collections which are subject to the refund undertaking required by § 273.302(b) and those portions which were secured by surety bond or placed in escrow as required by § 273.302(c); and

(3) for each first sale, the amount of any refunds paid to each purchaser and the basis for computation of that amount, together with releases signed by each purchaser to indicate payment and full satisfaction of the seller's refund obligation or a statement that the purchaser did not sign such a release.

SUBPART B - INTERIM COLLECTION AUTHORITY

Sec.

273.201 Transitional rule for certain new wells.
273.202 Collection pending jurisdictional agency determination of eligibility.
273.203 Collection pending review of jurisdictional agency determination.
273.204 Retroactive collection after final determination.

§ 273.201 Transitional rule for certain new wells.

(a) General rule.

(1) The price determined under the following table may be charged and collected for any first sale of natural gas from a new well to which this section applies:

If delivery occured in the calendar month of:	The price per MMBtu which may be charged and collected is:
December 1978	$ 1.630
January 1979	$ 1.639

(2) This section does not apply to a first sale if the seller is collecting a price under the authority of §§ 273.202 or 273.203.

(b) Period of collection. The price authorized by paragraph (a) may be charged and collected for natural gas deliveries:

(1) beginning on the date on which the seller first meets the requirements of paragraph (c); and

(2) ending March 1, 1979.

(c) Filing requirements. (1) Prior to making any collection under the authority of this section, the seller shall file with the Commission a statement under oath that:

(i) the natural gas for which the collection is made is produced from a new well;

(ii) the seller believes in good faith that such natural gas is eligible under the NGPA to be sold at a price not less than the price specified in paragraph (a); and

(iii) the seller has filed, or will file not later than March 1, 1979, an application with the jurisdictional agency for a determination of qualification under Subpart B, C, G, or H of Part 271.

(2) The statement shall include any well identification number assigned to the well by the jurisdictional agency, or if none has been assigned, other information sufficient to identify the well, and shall specify the extent to which such natural gas was "committed or dedicated to interstate commerce" (as defined in section 2(18) of the NGPA) on November 8, 1978, the maximum lawful price applicable to such gas on November 8, 1978, and any rate schedules for such gas on file with the Commission on November 8, 1978.

§ 273.202 Collection pending jurisdictional agency determination of eligibility.

(a) General rule. If an application has been filed with the jurisdictional agency for a determination of eligibility under Subpart B, C, G, or H of Part 271 (relating to new natural gas and certain OCS gas, gas from new onshore production wells, high cost natural gas or stripper natural gas), the price specified in § 273.201(a)(1) or the highest maximum lawful price which is specified in any of the subparts for which application is made may be charged and collected. No collection may be made under this section unless the jurisdictional agency to which the application is made has filed a report under § 274.105.

(b) Period of collection. The price authorized by paragraph (a) may be charged and collected for natural gas deliveries:

(1) beginning on the date on which the seller complies with the requirements of paragraph (c); and

(2) ending on the earlier of:

(i) 18 months after the first delivery for which collection is made under this section (12 months in the case of deliveries beginning on or after May 1, 1979); or

(ii) the date on which the Commission receives a notice of jurisdictional agency determination under § 275.201.

(c) Filing requirements. Prior to making any collection under the authority of this section with respect to a first sale of natural gas, the seller shall file with the Commission:

(1) a statement under oath that he believes in good faith that such natural gas is eligible under the NGPA and this subchapter for a maximum lawful price not less than that to be collected;

(2) a duplicate of the NGPA form submitted to the jurisdictional agency;

(3) a certificate of service of this filing upon any purchasers in the form required by §§ 1.17 and 1.51 of this chapter;

(4) a statement certifying that collections under this section will be placed in escrow or secured by a surety bond to the extent required by § 273.302(c); and

(5) A statement of the extent to which such natural gas was "committed or dedicated to interstate commerce" (as defined in section 2(18) of the NGPA) on November 8, 1978, the maximum lawful price applicable to such gas on November 8, 1978, and any rate schedules for such gas on file with the Commission on November 8, 1978.

(d) Filing limitation. Upon termination of the interim collection authority under this section for any sale, further filings under this section cannot be made for any sale from the same well.

§ 273.203 Collection pending review of jurisdictional agency determination.

(a) General rule. If the jurisdictional agency has determined in accordance with Part 274 that natural gas qualifies for a maximum lawful price under Subpart B, C, G, or H of Part 271, the seller may charge and collect such price during the period described in paragraph (b).

(b) Period of collection. The price authorized by paragraph (a) may be charged and collected for natural gas deliveries:

(1) beginning on the date on which the Commission receives notice under § 275.201 of a jurisdictional agency determination with respect to such gas; and

(2) ending 15 days after the jurisdictional agency's determination becomes final; or if the determination of the jurisdictional agency is remanded by final finding of the Commission, six months after the date of such remand.

(c) Filing requirements. No later than ten days after commencement of collection under this section, the seller shall file with the Commission a notice of interim collection of the applicable price established by a determination of the jurisdictional agency and a certificate of service of this notice upon any purchasers in the form required by §§ 1.17 and 1.51 of this chapter.

§ 273.204 Retroactive collection after final determination.

(a) General rule. If (1) a jurisdictional agency determination that first sales of natural gas from a well qualify for a maximum lawful price under Subpart B, C, G, or H of Part 271 becomes final, and (2) such maximum lawful price exceeds the price collected for deliveries of such gas for any period between the date of filing for the determination and the date on which the determination become final, then the seller may retroactively charge and collect for such period the amount of such excess. If the application for determination was filed by March 1, 1979, then the amount of such excess may be computed, charged and collected for first sales of natural gas delivered after November 30, 1978.

(b) Conditions. Collections may be made under this section only in accordance with the following conditions:

(1) Retroactive collections may be made only to the extent and in the manner specified by the applicable sales contract (or amendment thereto) and may not begin until 15 days after a determination of eligibility under Subpart B, C, G, or H of Part 271 becomes final pursuant to § 275.202.

(2) A seller may not make any collections under this section for any first sale unless the seller has fully complied with all requirements under this part and other regulations of the Commission applicable to each first sale made by such seller.

(3) A seller may not collect any amount under this section from any purchaser unless the seller has paid to such purchaser all amounts that are due to be refunded by the seller to such purchaser on or before any date on which retroactive collections are made.

(4) Within 15 days after retroactive collection begins for any first sale, the seller shall file with the Commission:

(i) a notice specifying the total amount to be collected;

(ii) a statement that the seller has paid all refunds then due to each purchaser; and

(iii) a statement of concurrence in the filing signed by each purchaser from whom retroactive collections are made.

(5) Carrying charges may be collected only to the extent agreed upon by the parties to the applicable sales contract (or amendment thereto). The rate of such charges may not exceed nine percent per annum.

SUBPART C - REFUND OBLIGATION

Sec.
273.301 General refund obligation.
273.302 Refunds of interim collections.

§ 273.301 General refund obligation.

Any price collected with respect to a first sale of natural gas to which this subchapter applies is collected subject to a general obligation promptly to refund any portion of such price which is in excess of the maximum lawful price or collection of which is not authorized by this subchapter. Compliance with the specific refund requirements of § 273.302 shall not terminate the general refund obligation under this section.

§ 273.302 Refunds of interim collections.

(a) Applicability. The provisions of this section apply to any interim collections made under the authority of Subpart B of this part.

(b) General undertaking.

(1) Except as provided for in subparagraph (2), any notice of collection which is filed with the Commission pursuant to Subpart B for a first sale of natural gas shall include an undertaking with respect to particular first sales in the following form:

AGREEMENT OF
(Name of Applicant) TO COMPLY WITH REFUND
PROVISIONS OF PART 273 OF THE COMMISSION'S REGULATIONS
UNDER THE NATURAL GAS POLICY ACT

(Name of Applicant) hereby agrees and undertakes to comply with the refund provisions of Part 273 of the Commission's Regulations under the Natural Gas Policy Act insofar as they are applicable to the collections for the wells identified in the annex to this agreement, and has executed and sealed this agreement or caused this agreement to be executed and sealed in its name by a duly authorized officer (of this corporation) or a duly authorized member (of this unincorporated association) on this _____ day of _____, 19__.

(Name of Respondent)

By_____

Attest:

_____

(2) In lieu of filing a general undertaking with respect to particular first sales as provided in subparagraph (1), a seller may elect to file a general undertaking applicable to all first sales made by the seller in the following form:

AGREEMENT OF
(Name of Applicant) TO COMPLY WITH REFUND
PROVISIONS OF PART 273 OF THE COMMISSION'S REGULATIONS
UNDER THE NATURAL GAS POLICY ACT AND PART 154
OF THE COMMISSION'S REGULATIONS UNDER THE
NATURAL GAS ACT

(Name of Applicant) hereby agrees and undertakes to comply with the refund provisions of Part 273 of the Commission's Regulations under the Natural Gas Policy Act insofar as they are applicable to any collections made by or for the applicant under these regulations and has executed and sealed this agreement or caused this agreement to be executed and sealed in its name by a duly authorized officer (of this corporation) or a duly authorized member (of this unincorporated association) on this _____ day of _____, 19__.

(Name of Respondent)

By_____

Attest:

_____

(3) Additional refund assurance may at any time be required by order of the Commission.

(c) Escrow. In the case of interim collections under § 273.202, the following additional requirements apply:

(1) Any amount (i) which is collected under § 273.202 and (ii) which (A) in the case of a new well, is in excess of the price specified in § 273.201(a)(1); or (B) in the case of any other well, is in excess of the otherwise applicable maximum lawful price, shall be secured by a surety bond or held in escrow.

(2) Any amount held in escrow under subparagraph (1) shall be deposited in a segregated interest-bearing account at a financial institution which is chartered and supervised by a state or federal agency and in which deposits are insured by a state or federal agency.

(d) Records. If any collection is made under Subpart B, the seller shall keep accurate accounts of all amounts so collected for each billing period and for each purchaser; the billing determinants of each sale to each such purchaser and resulting revenues as computed under the price being charged pursuant to this part; the price charged immediately prior to any interim collections; and the price prescribed by § 273.201 of this part (or any other maximum lawful price used to compute the amount bonded or escrowed under this paragraph), together with the differences in revenues so computed for each sale.

(e) Refund payment.

(1) Within 15 days after a determination that a first sale is not eligible for the price collected under this part becomes final, the seller shall refund to the purchaser by cash or check the refund amount computed under paragraph (g) together with interest at the rate of nine percent per annum on the excess charges that have been collected from the date of payment until the date of refund.

(2) No interest is required to be paid on any portion of a refund:

(i) which represents payments of royalties or taxes to federal or state governmental authorities, except to the extent that such authorities pay interest to the seller when refunding overpayments of royalties or taxes; or

(ii) which is paid from escrow (but interest which accrued in the escrow account on the amount required to be refunded shall be paid at the time of refund).

(f) Discharge of obligation. If a determination that natural gas is eligible for the price collected becomes final, then upon receipt of such final determination, the bond, escrow, or undertaking shall be discharged to the extent it applies to first sales from the well for which the determination was made. If any refunds required by this section are

made in conformity with the terms and conditions of the bond, escrow, or undertaking, the bond, escrow, or undertaking shall be discharged insofar as it applies to such refund obligation.

(g) Refund computation.

(1) Where the final determination that the sale is not eligible for the price collected under Subpart B also includes a final determination of the maximum lawful price for that sale, that finally determined price, to the extent permitted by the applicable sales contract, shall be used to compute the excessive interim collections and refund amount.

(2) In any other case, the appropriate maximum lawful price specified under Subpart D, E, F, or I of Part 271, to the extent permitted by the applicable sales contract, shall be used to compute the excessive interim collections and refund amount.

PART 274 - DETERMINATIONS BY JURISDICTIONAL AGENCIES

SUBPART A - GENERAL PROVISIONS

Sec.
274.101 Applicability.
274.102 Definition of determination.
274.103 Determinations by jurisdictional agencies.
274.104 Notice to the Commission.
274.105 Reports of determination process.

§ 274.101 Applicability.

This part applies to determinations of jurisdictional agencies (as defined in § 270.103) made under the following subparts of Part 271:

(a) Subpart B (relating to new natural gas and certain OCS gas);

(b) Subpart C (relating to new onshore production wells);

(c) Subpart G (relating to high cost gas); and

(d) Subpart H (relating to stripper well gas).

§ 274.102 Definition of determination.

For purposes of this part and Part 275, a determination has been made by a jurisdictional agency when such determination is administratively final before such agency.

§ 274.103 Determinations by jurisdictional agencies.

(a) A jurisdictional agency shall make determinations to which this part applies in accordance with procedures applicable to it under the law of its jurisdiction for making such determinations or for making comparable determinations.

(b) A jurisdictional agency determination is not effective if made with respect to an application which the Commission determines, within 45 days after the date on which the Commission received notice of the determination, does not comply with the filing requirements set forth in Subpart B of this part, or with the alternative requirements approved pursuant to § 274,207 of Subpart B.

§ 274.104 Notice to the Commission.

(a) Within 15 days after making a determination that natural gas qualifies for a maximum lawful price under this part, the jurisdictional agency shall give written notice of such determination to the Commission. Such notice shall include the following:

(1) a copy of the NGPA form filed by the applicant;

(2) a list of all participants in the proceeding as well as any persons who submitted or who sought an opportunity to submit written comment (whether or not such persons participated in the proceeding);

(3) a statement indicating whether the matter was opposed before the jurisdictional agency;

(4) the information set forth in § 274.105 as applied to the determination in question, unless the jurisdictional agency has on file with the Commission, a report describing its determination process under that section; and

(5)(i) if the application was opposed, the complete record of the proceeding resulting in the determination by the jurisdictional agency; or

(ii) if the application was unopposed, those records relied on by the jurisdictional agency in making the determination.

(b) Within 15 days after making a determination that natural gas does not qualify for a maximum lawful price under this part, the jurisdictional agency shall give written notice of such determination to the Commission. Such notice shall include the information specified in paragraph (a)(1) and (2) of this section; except that if the applicant or any aggrieved party so requests within the 15 days following the determination, the notice shall include all of the information specified in paragraph (a) of this section.

§ 274.105 Reports of determination process.

(a) A jurisdictional agency may file with the Commission a report which states that it will diligently undertake to consider and decide determinations to which this part applies describing the method by which such agency will make determinations to which this part applies. The report shall be in narrative form and shall include:

(1) any filing requirements, imposed by the jurisdictional agency in addition to those required by Subpart A of this part including specific forms; as well as any more specific identification of documents listed as minimum requirements as provided in Subpart B;

(2) the type of notice of filing that applicants will be required to give;

(3) the public or specific notice that will be given by the agency of filings, hearings, and determinations;

(4) the internal procedures applicable to such determinations, including specific references to the use of hearings, examiners, and formal consideration by the agency;

(5) the extent to which applicable rules permit interested parties to intervene, participate, or express views in proceedings before the agency;

(6) a description of the relevant data contained in the official records of the agency or contained in the official records of other agencies to which the jurisdictional agency has access; and

(7) a detailed explanation of the manner in which the agency will review applications including identification of the official records which will be examined to verify the information in applications.

(b) The jurisdictional agency shall give written notice to the Commission of any change in procedures described in the report filed pursuant to this section.

(c) Reports and any changes thereto filed by the jurisdictional agency will be placed in the public files of the Commission.

SUBPART B - REQUIREMENTS FOR FILINGS WITH JURISDICTIONAL AGENCIES

Sec.

274.201 General requirements.
274.202 New natural gas.
274.203 New reservoirs on old OCS leases.
274.204 New onshore production wells.
274.205 High cost gas.
274.206 Stripper gas.
274.207 Alternative filing requirements.

§ 274.201 General requirements.

(a) Filing requirements applicable if alternative requirements are not adopted. The provisions of §§ 274.201 through 274.206 this subpart apply to the extent not superseded by alternative filing requirements which have taken effect under § 274.207.

(b) Who may file. An application to which this subpart applies shall be filed with the jurisdictional agency by the person authorized by State law to make filings with respect to the well for which the application is made.

(c) Attestation. If the person filing an application under this part is an individual, the filing shall be signed and attested to by such individual, or in the case of a minor or other legally disabled person, his duly qualified legal representative. If the person making such filing is a

corporation, partnership, or trust, the filing shall be signed and attested to by a responsible officer of the corporation, a general partner of the partnership, or the trustee of the trust. An operator under a joint operating agreement may sign and attest to an application for a well covered by the operating agreement if notice of the application is given by the operator to all other parties participating in the particular well and that fact is certified in the application. In the case of any other legal entity, the operator of the well may sign and attest to the application.

(d) Additional information. The documents required by this subpart are the minimum required in support of a request for a determination. The jurisdictional agency may require additional support as it deems appropriate, and may more specifically identify the documents indicated as the minimum required.

(e) Notice to purchasers. Where an application for a determination is sought for natural gas for which the applicant has an identified purchaser, the application shall include a statement that the applicant has delivered or mailed, postage prepaid, a copy of the application to the purchaser.

§ 274.202 New natural gas.

(a) Applications for determination. A person seeking a determination for purposes of Subpart B of Part 271 that production from a well qualifies as new natural gas shall file an application with the jurisdictional agency for a determination that:

(1) such production is from a new OCS lease, in accordance with paragraph (b);

(2) such production is from a new onshore well, in accordance with paragraph (c); or

(3) such production is from a new onshore reservoir, in accordance with paragraph (d).

(b) New OCS lease. For purposes of demonstrating that natural gas is or is to be produced from a new OCS lease, the applicant shall file:

(1) NGPA Form No. 1 ;

(2) a statement by the applicant under oath:

(i) that he has made, or has caused to be made pursuant to his instructions, a diligent search of available public records including records maintained by the Department of Interior;

(ii) describing the search made, the records reviewed, the location of such records, and any records which he

believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(iii) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, the natural gas is, or is to be produced from a new OCS lease which is a lease of submerged acreage, entered into on or after April 20, 1977;

(iv) that he has no knowledge of any other information which is inconsistent with his conclusion; and

(3) if the jurisdictional agency so requires, certified copies of all records relied on by the applicant including copies of the agency's official files.

(c) New onshore wells. An application for a determination that a well is a new onshore well may be filed under subparagraph (1) or (2) of this paragraph, or both.

(1) 2.5 mile test. For purposes of demonstrating that a new onshore well is not within 2.5 miles of any marker well, the applicant shall file:

(i) NGPA Form No. 1 ;

(ii) the well completion report;

(iii) a location plat locating and identifying the well for which the determination is sought and all wells within the 2.5 mile radius;

(iv) the directional drilling survey, if the jurisdictional agency requires such a survey to be conducted;

(v) a statement by the applicant under oath:

(A) that he has made, or has caused to be made pursuant to his instructions, a diligent search of available public records including production, severance tax, and royalty records as well as any other records reasonably available to him;

(B) describing the search made, the records reviewed, the location of such records, and any records which he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(C) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, there is no marker well within 2.5 miles of the well for which he seeks a determination; and

(D) that he has no knowledge of any other information which is inconsistent with his conclusion; and

(vi) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(2) 1,000 feet deeper test. For purposes of demonstrating that the completion location of a new onshore well is at least 1,000 feet deeper than the deepest completion location of each marker well within a 2.5 mile radius of the well for which a determination is sought, the applicant shall file:

(i) NGPA Form No. 1;

(ii) the well completion report;

(iii) a location plat which locates and identifies the well for which the determination is sought and all wells within the 2.5 mile radius, including specific identification of all marker wells within the 2.5 mile radius;

(iv) a list of the deepest completion locations for all marker wells shown on the location plat;

(v) the directional drilling survey, if the jurisdictional agency requires such survey to be conducted;

(vi) a statement by the applicant, under oath:

(A) that he has made, or has caused to be made pursuant to his instructions, a diligent search of available public records including production, severance tax and royalty records as well as any other records reasonably available to him;

(B) describing the search made, the records reviewed, the location of such records, and any records which he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(C) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, there is no marker well within 2.5 miles of the well for which he seeks a determination which has a completion location less than 1,000 feet above the completion location of the new well; and

(D) that he has no knowledge of any other information which is inconsistent with his conclusion; and

(vii) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(d) New onshore reservoir.

(1) For purposes of demonstrating that production is from the new onshore reservoir, the applicant shall file:

(i) NGPA Form No. 1;

(ii) geological information sufficient to support a determination that the reservoir is a new onshore reservoir. Such information shall include to the extent reasonably available to the applicant at the time of the determination:

(A) well logs;

(B) bottom hole pressure surveys;

(C) well potential tests;

(D) formation structure maps;

(E) a subsurface cross-section chart; and

(F) a gas analysis;

(iii) the well completion report;

(iv) the directional drilling survey if the jurisdictional agency requires such survey to be conducted; and

(v) a statement by the applicant, under oath:

(A) that he has made or has caused to be made, pursuant to his instructions, a diligent search of available public records including production, severance tax, and royalty records as well as any other records reasonably available to him;

(B) describing the search made; the records reviewed; the location of such records; and a description of any records which are described in (ii) (or which he believes may otherwise contain information relevant to the determination) but which he has determined are not reasonably available to him;

(C) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief the natural gas to be produced and for which he seeks a determination is from a new onshore reservoir; and

(D) that he has no knowledge of any other information which is inconsistent with his conclusion; and

(vi) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(2) the applicant in his statement under oath shall also answer, to the best of his information, knowledge and belief and on the basis of the results of the search and examination, the following questions:

(i) Was natural gas produced in commercial quantities from the reservoir prior to April 20, 1977?

(ii)(A) Was the reservoir penetrated before April 20, 1977 by an old well from which natural gas or crude oil was produced in commercial quantities from any reservoir?

(B) If the question in clause (ii)(A) is answered in the affirmative, could natural gas have been produced in commercial quantities from the reservoir before April 20, 1977, from any old well described in clause (ii)(A)?

(C) If the natural gas is to be produced through an old well, were suitable facilities for the production and delivery to a pipeline of such natural gas in existence on April 20, 1977?

(D) If the applicant is unable to answer the questions in clauses (B) and (C) in the negative, the

applicant shall provide the information upon which he bases his conclusion that the natural gas for which he seeks a determination is to be produced from a new onshore reservoir.

§ 274.203 New reservoirs on old OCS leases.

A person seeking a determination for purposes of Subpart B of Part 271 that natural gas is produced from a new reservoir on an old OCS lease (as defined in § 271.203(b)), shall file an application with the jurisdictional agency which contains the following items:

(a) NGPA Form No. 1;

(b) the date the reservoir was penetrated;

(c) geological information sufficient to support a determination that the reservoir is a new reservoir on an old OCS lease. Such information shall include to the extent reasonably available to the applicant at the time of the determination:

(1) well logs;

(2) bottom hole pressure surveys;

(3) well potential tests;

(4) formation structure maps;

(5) a subsurface cross-section chart; and

(6) a gas analysis;

(d) the well completion report;

(e) if the date of penetration of the reservoir is prior to July 27, 1976:

(1) the results of any production test meeting the requirements of OCS Order No. 4 demonstrating that, as of the time of such test, the reservoir was not capable of producing in paying quantities;

(2) any production capability evidence meeting the requirements of OCS Order No. 4 demonstrating that, as of the time such evidence was obtained, the reservoir was not capable of producing in paying quantities; or,

(3) an induction-electric log, sidewall cores and core analysis, or a wire line formation test indicating that, as of the time of such tests, the reservoir was not capable of producing in commercial quantities;

(f) a statement by the applicant, under oath, that no such production tests were performed and that no evidence existed on the date the reservoir was penetrated that the reservoir was capable of producing in paying quantities;

(g) a statement by the applicant, under oath:

(1) that he has made, or has caused to be made pursuant to his instructions, a diligent search of available public records including production, severance tax, and royalty records, as well as any other records reasonably available to him;

(2) describing the search made, the records reviewed, the location of the records, and any records which he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(3) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced on an old lease on the OCS from a reservoir which was not discovered before July 27, 1976; and

(4) that he has no knowledge of any other information which is inconsistent with his conclusion; and

(h) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

§ 274.204 New onshore production wells.

A person seeking a determination for purposes of Subpart C of Part 271 that a well is a new, onshore production well, shall file an application with the jurisdictional agency which contains the following items:

(a) NGPA Form No. 1;

(b) the well completion report;

(c) a location plat which locates and identifies the well for which a determination is sought and all other wells within the proration unit in which the subject well is located; and

(d) a statement by the applicant, under oath:

(1) that he has made, or has caused to be made pursuant to his instructions, a diligent search of available public records including production, severance tax, and royalty records, as well as any other records reasonably available to him;

(2) describing the search made, the records reviewed, the location of the records, and any records he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(3) that on the basis of this search and examination, he has concluded that to the best of his information, knowledge and belief the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(4) that the well satisfies any applicable federal or state well-spacing requirements; and that the well is not within a proration unit:

(i) which was in existence at the time the surface drilling of the well began;

(ii) which was applicable to the reservoir from which natural gas is produced; and

(iii) which applied to any other well which either produced natural gas in commercial quantities or the surface drilling of which began on or after February 19, 1977, and
was thereafter capable of producing natural gas in commercial quantities; and

(iv) that he has no knowledge of any information which is inconsistent with his conclusions.

(e) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

§ 274.205 High-cost gas.

A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is produced from a well which is a deep, high-cost well shall file an application with the jurisdictional agency which contains the following items:

(a) NGPA Form No. 1;

(b) all well completion reports for this well;

(c) well logs;

(d) directional drilling surveys if available; and

(e) a statement by the applicant, under oath, that the surface drilling of the well for which he seeks a determination began on or after February 19, 1977 and that the well completion location is below a true vertical depth of 15,000 feet; and that he has no knowledge of any information which is inconsistent with his conclusions.

§ 274.206 Stripper gas.

A person seeking a determination for purposes of Subpart B of Part 271 that a well either qualifies or continues to qualify as a stripper well shall file an application with the jurisdictional agency which contains the following items:

(a) Application for determination. For purposes of initially qualifying a stripper well, the applicant shall file:

(1) NGPA Form No. 1;

(2) a copy of the results of any test establishing the maximum efficient rate of flow for the well; and, if the maximum efficient rate of flow has not been previously established:

(i) production records, if available, and if not, tax records, if available, or verified copies of billing statements for the 12 months immediately preceding November 9, 1978, including any part of the 90-day

production period upon which the application is based, which demonstrate that the well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day during such period;

(ii) if the well for which a determination is sought, has produced nonassociated natural gas at an average rate not in excess of 60 Mcf per production day for a 90-day production period within 120 days of the date of filing, but such an average rate of production has not been experienced for a 12-month period, the applicant shall file, as soon as practicable but in no event later than 10 months after the date the application is filed with the jurisdictional agency, either production records, if available, and if not, tax records, if available, or verified copies of billing statements for the 12-month period, including any part of the 90-day production period upon which the application is based, which demonstrates that such well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day during such period; or

(iii) such other evidence as the applicant may submit upon which the jurisdictional agency could establish the maximum efficient rate of flow;

(3) production records, if available, and if not, tax records, if available, or verified copies of billing statements upon which the average production for the 90-day production period is based;

(4) a list of the dates natural gas was not produced during the 90-day production period and a description of the state law or conservation practice recognized or approved by the state agency having regulatory jurisdiction over the production of natural gas which prohibited production;

(5) a list of the dates not included in the 90-day production period and a statement of the reasons why each day was excluded except to the extent they are covered under subparagraph (4);

(6) the production records for oil produced from the well for the 12-month period immediately preceding the date of filing;

(7) an inventory of the lease and production equipment used for the well for the past 24 months or for such lesser period as the well has been in production prior to date of filing, as well as the identification of any enhancement equipment or processes used during the completion of the well or during production subsequent to the completion of the well but prior to the filing for a determination;

(8) a statement by the person signing the applica-

tion, under oath, that he has made, or has caused to be made pursuant to his instructions, a diligent search of available public records as well as any other records reasonably available to him; a description of the search made, the records reviewed, the results of this search and examination he has concluded that to the best of his information, knowledge and belief, the well qualifies as a stripper well; and that he has no knowledge of any other information which is inconsistent with his conclusion.

(9) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(b) Notice by an operator or purchaser of an increase in production. For purpose of the notices required under § 271.805, the person filing shall include:

(1) the names and addresses of the operator and purchaser(s) with a designation of who is filing the notice;

(2) identification of the subject well and accurate record reference to the original determination qualifying the well as a stripper well;

(3) the monthly production reports, tax records or billing statements for the period of production in question;

(4) a statement of the average production per production day for the period in question; and

(5) a statement that all of the information contained in the notice is true to the best of his information, knowledge and belief; and that the notice has been served on the appropriate entities specified in § 271.805.

(6) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(c) Determination of increased production resulting from enhanced recovery techniques. For purposes of a determination that increased production resulted from the use of enhanced recovery techniques, the applicant shall file:

(1) the names and addresses of the applicant and purchaser;

(2) an identification of the well and accurate record reference to the original determination qualifying the well as a stripper well and the notice, if any, filed by a purchaser pursuant to § 271.805;

(3) a description of all processes used or equipment installed together with all dates of use or installation; and

(4) a statement, under oath, that to the best of his information, knowledge and belief, the information supplied and the conclusions drawn are true; that the operator has

no knowledge of any information inconsistent with any of his conclusions; and that the notice has been served on the appropriate entities specified in § 271.805.

(5) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(d) Designation that a well is seasonally affected. For purposes of a designation that a well is seasonally affected, applicant shall file:

(1) the names and addresses of the applicant and purchaser(s);

(2) an identification of the well and accurate record reference to the original determination qualifying the well as a stripper well and any notice filed by a purchaser pursuant to § 271.805;

(3) production records, tax records or billing statements for a period of 24 months, including the 90-day or 12-month production period which is the subject of the notice by the operator or the purchaser;

(4) a description of the nature of the seasonal fluctuations as inferred from the data supplied; and

(5) a statement, under oath, that the production records, tax records or billing statements are correct; that the operator is in possession of no knowledge of any information contrary to any conclusions drawn by him; and

that the notice has been served in the appropriate entities specified in § 271.805.

(6) if the jurisdictional agency so requires, certified copies of the records relied on by the applicant including copies of the agency's official files.

§ 274.207 Alternative filing requirements.

(a) General. Upon written application by a jurisdictional agency pursuant to this section, the Commission may approve filing requirements which differ from those in §§ 274.201 through 274.206 of this subpart.

(b) Contents of applications. Applications for approval of alternative filing requirements shall include:

(1) each requirement of this subpart for which an alternative is proposed;

(2) a description of the specific requirements which will replace the requirements in subparagraph (1), including copies of any forms to be used by the agency;

(3) the reasons for requesting approval of each alternative requirement, which may include the fact that such information is not available; and

(4) the basis for the belief that filings under the alternative requirements provide substantial evidence on which the jurisdictional agency may base a determination.

(c) Commission review of applications. Upon receipt of an application pursuant to this section, the Commission shall give public notice of such application and after review of any written comments, may issue an order approving the alternative requirements. The Commission will publish the order in the Federal Register.

(d) Effective date of alternative filing requirements. With respect to applications received by a jurisdictional agency after the effective date of approval of alternative filing requirements, such alternate requirements as are specified in the approval shall apply in lieu of the provisions of §§ 274.201 through 274.206 of this subpart.

(e) Termination of alternative filing requirements.

(1) A jurisdictional agency may, upon notice to the Commission, discontinue the use of any alternative filing requirements approved under this subpart.

(2) The Commission may, after public comment, give notice to a jurisdictional agency that the Commission has terminated its approval of alternative filing requirements, if it finds that the alternative filing requirements:

(i) are not sufficient to carry out the purpose of the NGPA; or

(ii) the jurisdictional agency is not requiring compliance with the alternative requirements.

(3) Applications for determinations received by jurisdictional agencies after notice of termination of the applicability of alternative filing requirements pursuant to this section shall be subject to the filing requirements set forth in §§ 274.201 through 274.206 of this subpart.

APPENDIX TO SUBPART B
NGPA Form No. 1
APPLICATION FOR DETERMINATION
(Secs. 102, 103, 107, 108 and 109)

1. API Well No.: _____

2. Applicant: _____

Address: Street: _____

City: _____ State: _____ Zip: _____

3. Well Name and No.: _____

4. Location of Well: _____
Field County State

5. OCS Lands: _____ _____ _____ _____
Lease Date OCS No. Block No. Area

6. Purchaser: _____

7. Contract Date: _____ 8. Est. Annual Prod. _____ MMcf

9. Contract Price on filing date:

Base (¢/MMBtu)	_____
Tax	_____
Other	_____
Total	_____

10. Max. Lawful Price on filing date:

Base (¢/MMBtu)	_____
Tax	_____
Other	_____
Total	_____

11. Reservoir: _____

12. Category of gas for which determination is sought:
Section of NGPA _____
Category: _____
Depth of Completion Location _____

13. Remarks:

Name: _____ Title: _____
(Name and title of person responsible for application)

_____ _____ _____
Signature Date Phone No.

SUBPART C - WAIVERS

Sec.
274.301 Applicability.
274.302 Requests for waiver.
274.303 Termination or revocation of agreements.
274.304 Notice.

§ 274.301 Applicability.

This subpart contains the procedures by which jurisdictional agencies and the Commission may enter into agreements under which jurisdictional agencies waive to the Commission authority to make the determinations set forth in Subpart A of this part.

§ 274.302 Requests for waiver.

(a) General. A jurisdictional agency may file with the Commission a request to enter into a written agreement waiving, in whole or in part, the authority of the jurisdictional agency to make determinations pursuant to Subpart A of this part.

(b) Contents of requests. Requests filed pursuant to this section shall include:

(1) the name of the jurisdictional agency;

(2) each class of determination for which a waiver is sought;

(3) the reasons the jurisdictional agency believes a waiver is necessary; and

(4) the length of time any waiver is to remain in effect.

(c) Commission action on requests. After consideration of any request under this section, the Commission may execute a written agreement which shall provide:

(1) that upon written acceptance of the agreement by the jurisdictional agency, the Commission, in lieu of such agency, will make the determinations waived in the agreement, and

(2) any terms and conditions, including the date(s) on which the waiver shall terminate, the Commission deems should be applicable to such waiver; and

(3) the effective date of the waiver.

§ 274.303 Termination or revocation of agreements.

Agreements pursuant to this subpart shall remain in effect until the earlier of:

(a) the expiration of the period specified in the agreement of waiver;

(b) receipt by the Commission of written notice from the jurisdictional agency that such agency terminates the agreement and assumes the authority to make determinations under Subpart A of this part; or

(c) the date on which the Commission pursuant to a term or condition of the waiver agreement, gives public notice that it has revoked the agreement.

§ 274.304 Notice.

The Commission shall cause public notice to be made of agreements of waiver and of any termination or revocation of a waiver.

SUBPART D - DELEGATIONS TO STATE AGENCIES

§ 274.401 Delegation of reporting requirements for certain first sales under sections 105 and 106(b) of the NGPA.

(a) Applicability. Section 276.101(b) provides that the Commission may delegate to a state agency the authority to receive the reports required to be filed by an interstate pipeline listing all first sales made to the pipeline pursuant to sections 105 and 106(b) of the NGPA. The filing requirements for the intrastate pipeline are set forth in sections 276.102(e) and 276.103(e). This section delineates the conditions under which the delegation may occur.

(b) State agency. A delegation pursuant to this section may be made only to a state agency having rate regulatory jurisdiction over all the intrastate pipelines that would be making the required filing. A state agency having rate jurisdiction is defined as one with regulatory jurisdiction over the rates and charges of the intrastate pipelines.

(c) Terms of the delegation. Such delegation shall be contained in an agreement executed between the Commission and the state agency, and shall contain such terms and conditions as the parties deem appropriate. Notice of the delegation agreement will be published in the Federal Register.

PART 275 - COMMISSION DETERMINATIONS AND REVIEW JURISDICTIONAL AGENCY DETERMINATIONS

SUBPART A - [RESERVED]

SUBPART B - PROCEDURE FOR COMMISSION REVIEW OF JURISDICTIONAL AGENCY DETERMINATIONS

Sec.

275.201 Publication of notice from jurisdictional agency.
275.202 Commission review of final determinations.
275.203 Protests to the Commission.
275.204 Contents of protests to the Commission.
275.205 Procedure for reopening determinations.

§ 275.201 Publication of notice from jurisdictional agency.

Upon receipt of a notice of determination by a jurisdictional agency under § 274.104, the Commission shall publish notice of such determination in the Federal Register. Such notice shall include:

(a) the date on which the jurisdictional agency notice was received;

(b) the information contained in Part I of the appropriate NGPA form;

(c) a statement that the record on which such determination was made is available for inspection at the offices of the Commission; and

(d) a statement that persons objecting to the final determination may, in accordance with this subpart, file a protest with the Commission within 15 days of the publication.

§ 275.202 Commission review of final determinations.

(a) Review by Commission. Except as provided in paragraph (b) of this section, determinations submitted to the Commission by jurisdictional agencies shall become final 45 days after the date on which the Commission received notice of the determinations, unless within 45 days, the Commission:

(1) makes a preliminary finding that:

(i) the determination is not supported by substantial evidence in the record on which the determination was made; or

(ii) the determination is not consistent with information which is contained in the public records of the Commission and which was not part of the record on which the jurisdictional agency made the determination, and

(2) provides written notice of such preliminary finding to the jurisdictional agency which made the determination, to those parties identified in the notice of such determination, to the Commission, and to any persons who have filed a protest.

(b) Noncompliance with filing requirements. Within 45 days after receipt of notice of a determination by a jurisdictional agency, if the Commission finds that the application to the jurisdictional agency on which the determination was based did not conform to the filing requirements of Part 274 or alternative filing requirements approved pursuant to § 274.207, it shall notify the jurisdictional agency that, because of such nonconformity, the determination is ineffective. Unless, within 45 days of such notification, the jurisdictional agency notifies the Commission that such agency has received a conforming application, the applicant's right to make interim collections under Part 273 shall terminate.

(c) Notice. Written notice by the Commission pursuant to paragraph (a)(2) of this section shall include the reasons for the preliminary finding.

(d) Procedures following notice of preliminary finding. The jurisdictional agency and persons receiving notice pursuant to paragraph (a)(2) may, within 20 days after issuance of the preliminary finding, submit written comments and request an informal conference with the Commission staff. All timely requests for conferences will be granted and notice given to, and attendance permitted by, those persons identified in § 275.202(a)(2).

(e) Commission review. In any case in which a protest was filed with the Commission pursuant to this subpart and a preliminary finding was issued, the Commission will issue a final order within 120 days after issuance of the preliminary finding, either affirming, reversing, or remanding the determination of the jurisdictional agency. Such order shall state the specific basis for the Commission's action. In the event that the Commission fails to issue a final order within such time, the determination of the jurisdictional agency shall become final.

§ 275.203 Protests to the Commission.

(a) Who may file. Any person may file a protest with the Commission with respect to a determination of a jurisdictional agency.

(b) Grounds. Protests may be based only on the grounds that the final determination is:

(1) not supported by substantial evidence;

(2) not consistent with information which is contained in the public records of the Commission and which was not part of the record on which the determination was made;

(3) not consistent with information submitted with the protest for inclusion in the public records of the Commission,

which information was not part of the record on which the determination was made; or

(4) not based on an application which complied with the filing requirements set forth in Subpart B of Part 274, or alternative filing requirements approved pursuant to § 274.207.

§ 275.204 Contents of protests to the Commission.

Each protest shall include:

(a) an identification of the determination protested;

(b) the name and address of the person filing the protest;

(c) a statement of whether or not the person filing the protest participated in the proceeding before the jurisdictional agency, and if not, the reason for his non-participation;

(d) a statement of the effect the determination will have on the protestor;

(e) a statement of the precise grounds under § 275.202 for the protest, and all supporting documents or references to any information relied on which is in or to be inserted in the public files of the Commission or in the record of the determination; and

(f) a statement that the protestor has served, in accordance with §§ 1.17 and 1.51 of this chapter a copy of the protest together with all supporting documents on the jurisdictional agency and all persons who participated in the proceeding before the jurisdictional agency.

§ 275.205 Procedure for reopening determinations.

(a) Grounds. At any time subsequent to the time a determination becomes final pursuant to this subsection, the Commission, on its own motion, or in response to a petition filed by any person aggrieved or adversely affected by the determination, may reopen the determination if it appears that:

(1) in making the determination, the Commission or the jurisdictional agency relied on any untrue statement of material fact; or

(2) there was omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made to the jurisdictional agency or the Commission.

(b) Contents of petition. A petition to reopen the determination proceedings shall contain the following information, under oath:

(1) the name and address of the person filing the petition;

(2) the interest of the petitioner in the outcome of the determination proceeding;

(3) the statement of material fact that is alleged to be untrue or omitted;

(4) a statement explaining why the outcome of the determination proceeding would have been different had the statement or omission not occurred; and

(5) copies of all documents relied on by the petitioner, or references to such documents if they are contained in the public files of the Commission.

(c) Procedures after reopening. In the event the Commission reopens a determination pursuant to this section it shall:

(1) give notice to the jurisdictional agency and all persons who participated, before both that agency and the Commission, in the proceedings resulting in the determination in question;

(2) permit the jurisdictional agency and other persons receiving notice pursuant to subparagraph (1) to submit whatever documentary evidence such agency or persons deem relevant; and

(3) take such other action or hold or cause to be held such proceedings as it deems necessary or appropriate for a full disclosure of the facts.

(d) Final order of Commission. Within 150 days after issuance of the notice under paragraph (c)(1) of this section, the Commission shall issue a final order. If the Commission finds that the grounds referred to in paragraph (a) of this section exist, it shall vacate the determination, and order refund or other appropriate action, and the right to collect the previously determined maximum lawful price shall terminate.

PART 276 - REPORTS

SUBPART A - REPORTS FOR SALES OF NATURAL GAS UNDER SECTIONS 105, 106(b) AND 109, OF THE NGPA

Sec.

276.101 Reporting entities.
276.102 Existing intrastate contracts.
276.103 Intrastate rollover contracts.
276.104 Other categories of natural gas.
276.105 Elective filing for small producers.

§ 276.101 Reporting entities

(a) General rule. Except as provided in paragraph (b), any person who makes a first sale of natural gas with respect to which the maximum lawful prices under sections 105, 106(b) or 109 of the NGPA apply, shall file with the Commission reports in accordance with the provisions of this subpart.

(b) Exceptions. In the case of reports to be filed with respect to existing intrastate contracts and intrastate rollover contracts, any person who, in the 12 month period which began on December 1, 1977 and ended on November 30, 1978, sold less than a total of 10,000 MMcf of natural gas

(including the sales by any affiliate of such person and including all sales whether such sales occurred in inter- or intrastate commerce) may, in lieu of the reports otherwise required under this subpart, elect to file the oath statement and undertaking described in §276.105 of this subpart.

(2) In the case of a first sale under sections 105 and 106(b) of the NGPA to an interstate pipeline or an intrastate pipeline, the provisions of paragraphs (a) and (b)(1) of this section shall not apply and the reports required to be filed under §§ 276.102 and 276.103 of this subpart shall be filed by the purchasing interstate pipeline or intrastate pipeline. Such reports shall be filed with the Commission except in the case of a delegation of functions which has been made to a state regulatory agency pursuant to Subpart D of Part 274. With regard to such first sales, the person making the first sale must file an oath statement with the Commission in accordance with §§ 276.102(f) and 276.103(f).

§ 276.102 Existing intrastate contracts.

(a) Any person who makes a first sale of natural gas under an existing intrastate contract or a successor to an existing intrastate contract shall file with the Commission on

March 1, 1979 and annually thereafter a report which contains:

(1) NGPA Form No. _____;

(2) with respect to each existing intrastate contract and each successor to an existing intrastate contract under which first sales of natural gas occurred in the reporting period, a statement identifying;

(i) the date the existing intrastate contract or the successor to an existing intrastate contract was entered into;

(ii) the contract price as defined in Subpart E on November 8, 1978;

(iii) if the contract price on November 8, 1978, is less than $2.060 per MMBtu, a copy or summary of the contract price escalator terms, if any;

(iv) the duration of the contract;

(v) the identity of all purchasers under the contract;

(vi) the contract price on December 31, 1984, if such price is less than $1.00 per MMBtu; and

(3) a statement under oath to be filed by a responsible officer of such person that to the best of such officer's information, knowledge and belief;

(i) all information submitted in the report is true; and

(ii) any first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in section 105 of the NGPA and the Commission's regulations under Subpart E of Part 271.

(b) In the case of a report filed with the Commission on March 1, 1979, the report shall include the volumes sold under each existing intrastate contract or successor contract in the months of December 1978 and January 1979 and, in the case of the annual reports beginning with the reports to be filed on March 1, 1980 the report shall include volumes sold under each existing intrastate contract or successor contract for the 12 month period ending on January 31 of the reporting year.

(c) Any person filing annual reports with the Commission under this subpart may exclude from his report any information which had been previously reported to the Commission under an earlier report filed by such person under paragraphs (a) or (b) of this section.

(d) For the purposes of the statement under paragraph (a)(3), the reporting period shall mean (1) in the case of the March 1, 1979 reporting period which begins on December 1, 1978 and ends on January 31, 1979, and (2) in the case of annual reports filed beginning with March 1, 1980, the period which begins on February 1 of the preceding calendar year and ending on January 31 of the reporting year.

(e) An interstate or intrastate pipeline purchasing natural gas under an existing intrastate contract shall file a report with the Commission or the appropriate state regulatory agency where a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274. Such report shall contain all of the information required in this section for all purchases by the reporting pipeline under existing intrastate contracts except:

(1) in lieu of the oath filing required under sub-paragraph (a)(3), the reporting pipeline shall make a statement under oath by a responsible officer of such pipeline that to the best of such officer's information, knowledge and belief all of the information contained in the report is true; and

(2) paragraph (d) is not applicable.

(f) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an existing intrastate contract shall file with the Commission by March 1, 1979 and annually thereafter a statement by a responsible officer of such person under oath which contains:

(1) a statement that to the best of such officer's information, knowledge and belief, any first sales of natural gas occurring in the reporting period under existing intrastate contracts were made in compliance with applicable maximum lawful prices specified in section 105 of the NGPA and the Commission's regulations under Subpart E of Part 271; and

(2) a statement that books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (e) of this section and that such person undertakes to retain such records for a period of 3 years after the expiration of any contract under which any first sales have occurred during the reporting period.

§ 276.103 Intrastate rollover contracts.

(a) Any person who makes a first sale of natural gas

under an intrastate rollover contract shall file with the Commission on March 1, 1979 and annually thereafter a report which contains:

(1) NGPA Form No. _____;

(2) with respect to each intrastate rollover contract under which first sales of natural gas occurred in the reporting period, a statement identifying:

(i) the effective date on which first sales began under the intrastate rollover contract;

(ii) identification of the expired contract;

(iii) the identity of all parties to the existing intrastate contract which expired and to the intrastate rollover contract;

(iv) a specification of all changes, if any, in price related terms in the intrastate rollover contract from those contained in the existing intrastate contract which expired;

(v) the contract price paid, or which would have been paid, under the existing intrastate contract for the month in which first sales began under the rollover contract;

(vi) the price charged for the month in which first sales began under the intrastate rollover contract; and

(3) A statement under oath to be filed by a responsible officer of such person that to the best of such officer's information, knowledge and belief:

(i) all information submitted in the report is true; and

(ii) any first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in section 106(b) of the NGPA and the Commission's regulations under Subpart F of this part.

(b) In the case of a report filed with the Commission on March 1, 1979, the report shall include the volumes sold under each intrastate rollover contract in the months of December 1978 and January 1979 and, in the case of the annual reports beginning with the report to be filed on March 1, 1980, the report shall include volumes sold under each intrastate rollover contract for the 12 month period ending on January 31 of the reporting year.

(c) Any person filing annual reports with the Commission under this subpart may exclude from his report any information which had been previously reported to the Commission under an earlier report filed by such person under paragraphs (a) and (b).

(d) For the purposes of the statement under paragraph (a)(3), the reporting period shall mean (1) in the case of the March 1, 1979 reporting period which begins on

December 1, 1978 and ends on January 31, 1979, and (2) in the case of annual reports filed beginning with March 1, 1980, the period which begins on February 1 of the preceding calendar year and ending on January 31 of the reporting year.

(e) An interstate or intrastate pipeline purchasing natural gas under an intrastate rollover contract shall file a report with the Commission or the appropriate state regulatory agency where a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274. Such report shall contain all of the information required in this section for all purchases by the reporting pipeline under intrastate rollover contracts except:

(1) in lieu of the oath filing required under paragraph (a)(3), the reporting pipeline shall make a statement under oath by a responsible officer of such pipeline that to the best of such officer's information, knowledge and belief all of the information contained in the report is true; and

(2) paragraph (d) is not applicable.

(f) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an intrastate rollover contract shall file with the Commission by March 1,

1979 and annually thereafter a statement by a responsible officer of such person under oath which contains:

(1) a statement that to the best of such officer's information, knowledge and belief, any first sales of natural gas occurring in the reporting period under intrastate rollover contracts were made in compliance with applicable maximum lawful prices specified in section 106(b) of the NGPA and the Commission's regulations under Subpart E of this part; and

(2) a statement that books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (e) of this section and that such person undertakes to retain such records for a period of 3 years after the expiration of any contract under which any first sales have occurred during the reporting period.

§ 276.104 Other categories of natural gas.

(a) A person who makes a first sale of natural gas which qualifies under Subpart I of Part 271 shall file a report with the Commission on March 1, 1979 and annually thereafter which contains the following items:

(1) NGPA Form No. 1;

(2) the volumes of gas sold in the reporting period;

(3) a statement that:

(i) the natural gas sold in the reporting period was not committed or dedicated to interstate commerce on November 8, 1978; or if such as was so committed or dedicated, a just and reasonable rate was not in effect under the Natural Gas Act on such date for the natural gas (including the basis for such conclusion); and with respect to any natural gas sold in the reporting period which was not committed or dedicated to interstate commerce on November 8, 1978, the natural gas sold in the reporting period is not subject to an existing intrastate contract as defined in §271.504 or intrastate rollover contract as defined in §271.604;

(4) a statement that, to the best of his information, knowledge and belief, the natural gas does not qualify for a maximum lawful price under any Subpart of Part 271 that is lower than the maximum lawful price permitted under §271.902;

(5)(i) if the natural gas was committed or dedicated to interstate commerce on November 8, 1978, a statement that a notice of change in rate schedule pursuant to §154.94 of this chapter has been filed;

(ii) if the natural gas was not committed or dedicated to interstate commerce on November 8, 1978, a statement identifying the well, reservoir and acreage from which the natural gas is produced.

(6) a statement under oath to be filed by a responsible officer of such person that to the best of such officer's information, knowledge and belief:

(i) all information submitted in the report is true; and

(ii) any first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in section 109 of the NGPA and the Commission's regulations under Subpart I of this part.

(b) For the purposes of the statement under paragraph (a)(6), the reporting period shall mean (1) in the case of the March 1, 1979 reporting period which begins on December 1, 1978 and ends on January 31, 1979, and (2) in the case of annual reports filed beginning with March 1, 1980, the period which begins on February 1 of the preceding calendar year and ending on January 31 of the reporting year.

§ 276.105 Elective filing for small producers.

(a) Any person described in paragraph (b)(1) of §276.101

who elects, in lieu of reports otherwise required under this Subpart under §276.102 and §276.103, to file a general oath statement of undertaking shall no later than March 1, 1979, and annually thereafter, file with this Commission a report containing the following:

(1) NGPA Form No. _____;

(2) a statement that such person in the 12 month period which began December 1, 1977 and ended on November 30, 1978, sold less than a total of 10,000 MMcf of natural gas (including the sales of any affiliate of such person and including all sales which occurred in either inter- or intrastate commerce);

(i) a statement under oath to be filed by a responsible officer of such person that to the best of such officer's information, knowledge and belief, any first sales of natural gas made or to be made will comply with applicable maximum lawful prices specified in sections 105 and 106(b) of the NGPA and the Commission's regulations under Subparts E and F of this part; and

(ii) a statement under oath to be filed by a responsible officer of such person that books and records kept and maintained by such person reflect all the information

required to be reported under §§ 276.102, 276.103 and 276.104 of this Subpart and that such person undertakes to retain such records for a period of 3 years after the expiration of any contract under which any first sales have occurred in the reporting period.

(b) In the case of a general oath statement filed with the Commission on March 1, 1979, such statement shall apply to the volumes sold under each existing contract, successor contract, or intrastate rollover contract in the months of December 1978 and January 1979 and, in the case of the annual statements beginning with the statements to be filed on March 1, 1980, the statement shall apply to volumes sold under each existing contract, successor contract, or intrastate rollover contract for the 12 month period ending on January 31 of the reporting year.

(c) Any person filing annual statements with the Commission under this Subpart may exclude from his report any information which had been previously reported to the Commission under an earlier statement filed by such person under paragraph (a) of this section.

(d) For the purposes of the statement under paragraph (a) of this section, the reporting period shall mean (1) in

the case of the March 1, 1979 reporting period which begins on December 1, 1978 and ends on January 31, 1979, and (2) in the case of annual reports filed beginning with March 1, 1980, the period which begins on February 1 of the preceding calendar year and ending on January 31 of the reporting year.

APPENDIX TO PART 276

NGPA CONTRACT SUMMARY FORM FOR
SECTIONS 105 and 106(b)

1. Applicant: _____

   Address: Street: _____

   City: _____ State: _____ Zip: _____

2. Purchaser: _____

3. Contract Date: _____

4. Effective Date of Contract: _____

5. Estimated Annual Production: _____ (Mcf)

6. Duration of Contract: _____

7. Contract Price per MMBtu
   as of November 9, 1978: _____

Name: _____ Title: _____
(name and title of person responsible for application)

_____ _____ _____
Signature Date Phone No.

APPENDIX TO PART 276

For Pipeline Purchasers
Summary Report For Existing Sales Not Committed
or Dedicated on 11-8-78 (Section 276.102)

Producer	Contract Date	Effective Date of Contract	Duration of Contract	Estimated Annual Production (MMcf)	Contract Price as of 11-8-78 (¢/MMBtu) 1/	Contract Price on 12-31-84 (¢/MMBtu)

1/ If price is less than $2.060/MMBtu, include a copy or summary of contract price escalator terms.

APPENDIX TO PART 276

For Pipeline Purchasers
Summary Report For Intrastate Rollover Contracts
(Section 276.103)

Producer 1/	Date Sales Commenced Under Rollover Contract	Date of Expired Contract	Date of Rollover Contract	Last Price Under Expired Contract (¢/MMBtu)	Initial Price Under Rollover Contract (¢/MMBtu) 2/

1/ List all parties to the existing contract which expired and identify any change in parties.

2/ Identify all changes in price related terms from those in existing contract.

SUBCHAPTER I - OTHER REGULATIONS UNDER THIS NATURAL GAS POLICY ACT OF 1978

PART 280 - [RESERVED]
PART 281 - [RESERVED]
PART 283 - [RESERVED]

PART 284 - CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS

SUBPART A - CERTAIN TRANSPORTATION BY INTERSTATE PIPELINES

Sec.
284.101 Applicability.
284.102 Transportation by interstate pipelines.
284.103 Rates and charges.
284.104 Terms and conditions.
284.105 Extensions.
284.106 Reporting requirements.

§ 284.101 Applicability.

This subpart implements section 311(a)(1) of the NGPA and applies to the transportation of natural gas by interstate pipelines on behalf of:

(a) intrastate pipelines; and

(b) local distribution companies.

§ 284.102 Transportation by interstate pipelines.

(a) Subject to the provisions of this subpart, any interstate pipeline may, without prior Commission approval, transport natural gas on behalf of:

(1) any intrastate pipeline; and

(2) any local distribution company.

(b) Rates charged for transportation under this subpart may not exceed just and reasonable rates as provided in § 284.103.

(c) Transportation arrangements under this subpart shall be subject to terms and conditions as provided in § 284.104.

(d) Transportation arrangements under this subpart may be extended as provided in § 284.105.

(e) Interstate pipelines engaging in transportation arrangements under this subpart shall file reports as provided in § 284.106.

§ 284.103 Rates and charges.

(a) Rates and charges for transportation of natural gas by interstate pipelines under this subpart shall be determined as provided in paragraphs (b) through (d) of this section.

(b) If an interstate pipeline has on file with the Commission a transportation rate schedule applicable to transportation arrangements under this subpart, the interstate pipeline shall use the rates contained in that schedule.

(c) If an interstate pipeline does not have on file with the Commission a transportation rate schedule applicable to transportation arrangements under this subpart, the interstate pipeline may elect either:

(1) to base its rates upon the methodology and cost used in designing rates to recover the transmission and related storage costs included in its then effective sales rate schedules; or

(2) to use the rates contained in a transportation rate schedule on file with the Commission which the interstate pipeline determines covers service comparable to transportation service under this subpart.

(d) All revenues in excess of one cent per Mcf received for transportation rendered pursuant to an arrangement under this subpart shall be credited to Account No. 191 and flowed back to the interstate pipeline's customers except:

(1) to the extent revenues attributable to such services fall within representative levels which have been credited in arriving at a test period cost of service; or

(2) to the extent that volumes transported fall within representative levels which have been included in billing determinants for the purpose of establishing rates.

§ 284.104 Terms and conditions.

(a) Contracts for the transportation of natural gas pursuant to this subpart shall provide:

(1) that service under the contract shall be conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(2) that the transportation arrangement complies with the provisions of this subpart.

(b) Transportation arrangements pursuant to this subpart may be for a period not exceeding two years and may be extended as provided in § 284.105.

(c) The Commission may, by rule or order, impose further terms and conditions as it deems appropriate and in the public interest.

§ 284.105 Extensions.

(a) Interstate pipelines seeking to extend transportation arrangements under this subpart shall file an extension report as required in § 284.106(c).

(b) The proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, after opportunity for the oral presentation of data, views and arguments, and for written comments, determines by order that the proposed extension is not approved or is approved as modified.

(c) Extensions may be for a period not exceeding two years unless otherwise ordered by the Commission.

§ 284.106 Reporting requirements.

(a) Initial report. Within 30 days of commencing transportation under this subpart, an interstate pipeline shall file with the Commission an initial report, under oath, signed by a senior official of the company, containing the following information:

(1) the exact legal name of the interstate pipeline and the name, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this subpart should be addressed;

(2) a description of the transportation service, including:

(i) the identity of the parties;

(ii) the dates of commencement and termination of the service;

(iii) the estimated total and daily volumes of natural gas to be transported;

(iv) the points between which the natural gas is to be transported; and

(v) the rate to be charged, and with respect to the rate:

(A) if the interstate pipeline is charging a rate contained in a rate schedule under § 284.103(b), the identity of the rate schedule;

(B) if the interstate pipeline is charging a rate computed pursuant to § 284.103(c)(1), an explanation of how the rate is computed; or

(C) if the interstate pipeline is charging a rate contained in a rate schedule under § 284.103(c)(2), a statement of the basis upon which the interstate pipeline determined that the rate schedule used was for comparable service;

(3) a statement that the contract provides that:

(i) service under the contract is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(ii) the transportation arrangement complies with the provisions of this subpart.

(b) Subsequent reports. If any significant change occurs with respect to the information filed under paragraph (a) of this section, the interstate pipeline shall file with the Commission, under oath, appropriate amendments

to its initial report, signed by a senior official of the company.

(c) Extension report. Not less than 90 days prior to the expiration of a contract for the transportation of natural gas pursuant to this subpart, an interstate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission an extension report, under oath, signed by a senior official of the company stating:

(1) current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) the proposed terms of the extension.

(d) Final report. Within 30 days after the termination of any transportation arrangement or extension under this subpart, the interstate pipeline shall file with the Commission a report, under oath, signed by a senior official of the company, stating:

(1) current information with respect to the matters required to be reported under paragraph (a) of this section;

(2) actual total and daily volumes of natural gas transported pursuant to the arrangement;

(3) total revenues received and a complete statement of the manner in which the revenues were treated.

SUBPART B - CERTAIN TRANSPORTATION BY INTRASTATE PIPELINES

Sec.
284.121 Applicability.
284.122 Transportation by intrastate pipelines.
284.123 Rates and charges.
284.124 Terms and conditions.
284.125 Extensions.
284.126 Reporting requirements.

§ 284.121 Applicability.

This subpart implements section 311(a)(2) of the NGPA and applies to the transportation of natural gas by intrastate pipelines on behalf of interstate pipelines and local distribution companies served by interstate pipelines.

§ 284.122 Transportation by intrastate pipelines.

(a) Subject to the provisions of this subpart, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of:

(1) any interstate pipeline; and

(2) any local distribution company served by an interstate pipeline.

(b) Rates charged for transportation under this subpart may not exceed fair and equitable rates as provided in § 284.123.

(c) Transportation under this subpart shall be subject to terms and conditions as provided in § 284.124.

(d) Transportation arrangements under this subpart may be extended as provided in § 284.125.

(e) Intrastate pipelines engaging in transportation arrangements under this subpart shall file reports as required by § 284.126.

§ 284.123 Rates and charges.

(a) Rates and charges for transportation shall be fair and equitable as determined in accordance with paragraph (b) of this section.

(b) The intrastate pipeline may elect either:

(1) to base its rates upon the methodology and cost used in designing rates to recover the transmission and related storage costs included in its then effective firm sales rate schedules on file with the appropriate state regulatory agency; or

(2) to use the rates contained in a transportation rate schedule for intrastate service on file with the appropriate state regulatory agency which the intrastate pipeline determines covers service comparable to service under this subpart.

(c) The Commission presumes that all revenues received by an intrastate pipeline in connection with transportation arrangements pursuant to this subpart have been

or will be taken into account for purposes of establishing rates charged by the intrastate pipeline for service to intrastate customers.

§ 284.124 Terms and conditions.

(a) Transportation arrangements pursuant to this subpart may be for a period not exceeding two years and may be extended for periods not exceeding two years.

(b) The Commission may, by rule or order, impose further terms or conditions as it deems appropriate and in the public interest.

§ 284.125 Extensions.

(a) An intrastate pipeline seeking to extend a transportation arrangement under this subpart shall file an extension report as provided by §284.126(c).

(b) The proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, after opportunity for the oral presentation of data, views and arguments, and for written comments, determines by order that the proposed extension is not approved or is approved as modified.

§ 284.126 Reporting requirements.

(a) Initial report. Within thirty days of commencing

transportation service pursuant to this subpart as intrastate pipeline shall file with the Commission an initial report, under oath, signed by a senior official of the company, containing the following information:

(1) the exact legal name of the intrastate pipeline; and the name, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this subpart should be addressed;

(2) a general description of the intrastate pipeline's existing operations;

(3) a description of the transportation service, including:

(i) the identity of the parties;

(ii) the dates of commencement and projected termination of the service;

(iii) the estimated total and daily volumes of natural gas to be transported;

(iv) the points between which the gas is to be transported; and

(v) the rate to be charged, and with respect to the rate:

(A) if the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1), an explanation of how the rate is computed; or

(B) if the intrastate pipeline is charging a rate contained in a rate schedule under § 284.123(b)(2), a statement of the basis upon which the intrastate pipeline determined that the service provided is comparable to service provided for under the rate schedule.

(b) Subsequent reports. If any significant change occurs with respect to the information filed under paragraph (a) of this section, the intrastate pipeline shall file with the Commission, under oath, appropriate amendments to its initial report, signed by a senior official of the company.

(c) Extension report. Not less than 90 days prior to the expiration of a contract for the transportation of natural gas pursuant to this subpart, an intrastate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission under oath, an extension report, signed by a senior official of the company stating:

(1) current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) the proposed terms of the extension.

(d) Final report. Within thirty days after the termination of any transportation arrangement or extension under this subpart, the intrastate pipeline shall file with the Commission and with the appropriate regulatory agency a report, under oath, signed by a senior official of the company, providing:

(1) current information with respect to any matters required to be reported under paragraph (a) of this section;

(2) actual total and daily volumes of natural gas transported;

(3) total revenues received and a complete statement of the manner in which such revenues were treated;

(4) the actual rate charged, and with respect to the rate:

(i) if the intrastate pipeline computed a rate pursuant to § 284.123(b)(1), the rate and an explanation of how it was computed; or

(ii) if the intrastate pipeline used a rate pursuant to § 284.123(b)(2), the rate and the basis upon which the

interstate pipeline determined that the service provided for under the rate schedule was comparable to service under this subpart; and

(5) a statement that the appropriate state regulatory agency has been notified that the Commission has presumed that all revenues received by an intrastate pipeline in connection with the transportation arrangement that is the subject of the report have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation rates for intrastate service.

SUBPART C - CERTAIN SALES BY INTRASTATE PIPELINES

Sec.
284.141 Applicability.
284.142 Sales by intrastate pipelines.
284.143 Definition.
284.144 Rates and charge.
284.145 Terms and conditions.
284.146 Extensions.
284.147 Terminations.
284.148 Reporting requirements.

§ 284.141 Applicability.

This subpart implements section 311(b) of the NGPA and applies to certain sales of natural gas by intrastate pipelines to:

(a) interstate pipelines; and

(b) local distribution companies served by interstate pipelines.

§ 284.142 Sales by intrastate pipelines.

Any intrastate pipeline may, without prior Commission approval, sell natural gas to any interstate pipeline or any local distribution company served by an interstate pipeline, in accordance with the provisions of this subpart.

§ 284.143 Definition.

"Weighted average acquisition cost of natural gas" means the cost of natural gas to an intrastate pipeline computed by:

(a) determining the actual volumes of natural gas purchased by the intrastate pipeline from each source of supply during a 12-month period ending no more than 90 days prior to the commencement of deliveries pursuant to the sale;

(b) multiplying the volume attributable to each source of supply by the price with respect to each source of supply on the last day of the 12-month period; and

(c) dividing the sum of the products computed under paragraph (b) by the sum of the volumes determined under paragraph (a).

§ 284.144. Rates and charges.

(a) Basic rate. The rates and charges by an intrastate pipeline pursuant to this subpart may not exceed:

(1) its weighted average acquisition cost of natural gas; plus

(2) an amount to recover the costs of gathering, treating and transporting the natural gas associated with the sale, based upon the methodology and costs used in designing rates to recover those costs under firm sales rate schedules in effect at the time of the sale; plus

(3) an adjustment as determined under paragraph (b).

(b) With respect to natural gas sold pursuant to this subpart which:

(1) is acquired under an existing contract;

(2) is in excess of volumes which the intrastate pipeline would otherwise acquire; and

(3) the price of which exceeds the intrastate pipeline's weighted average acquisition cost of natural gas, the intrastate pipeline may add to the basic rate under paragraph (a) an amount sufficient to offset the increase in its weighted average acquisition cost of natural gas.

§ 284.145 Terms and conditions.

(a) No sale pursuant to this subpart or extension thereof may be for a period exceeding two years.

(b) Any sale pursuant to this subpart shall be subject to interruption to the extent that natural gas subject to the sale is required by the intrastate pipeline to provide adequate service to the pipeline's customers at the time of the sale.

(c) No sale pursuant to this subpart may involve natural gas acquired by the intrastate pipeline solely or primarily for the purpose of resale pursuant to this subpart.

(d) The Commission may by rule or order impose other terms and conditions as it deems appropriate and in the public interest.

(e) The Commission presumes that the gathering, treating and transportation costs recovered under § 284.144 will be considered by the state regulatory authority in arriving at sales and transportation rates to enable the intrastate pipeline company to recover its gathering, treating and transportation costs and earn its allowed rate of return.

§ 284.146 Extensions.

(a) An intrastate pipeline seeking to extend a sale pursuant to this subpart shall file an extension report as provided by § 284.148(c).

(b) The proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, after opportunity for the oral presentation of data, views and arguments, and for written comments, determines by order that the proposed extension is not approved, or is approved as modified.

§ 284.147 Terminations.

(a) Upon complaint of any interested person or upon the Commission's own motion, the Commission may by order terminate a sale pursuant to this subpart.

(b) Prior to issuing an order under paragraph (a) of

this section, the Commission shall afford an opportunity for the oral presentation of data, views and arguments, and for written comments.

(c) A sale under this subpart may be terminated if the Commission determines that:

(1) the termination is required to enable the intrastate pipeline to provide adequate service to its customers at the time of the sale;

(2) the sale involves natural gas acquired by the intrastate pipeline solely or primarily for the purpose of resale pursuant to this subpart;

(3) the sale violates any provision of this subpart or any term or condition established by rule or order of the Commission applicable to the sale; or

(4) the sale circumvents or violates any provision of the NGPA.

(d) Upon complaint of any interested person or upon its own motion, the Commission may, prior to a hearing as provided in paragraph (b) of this section, suspend a sale pursuant to this subpart pending the hearing if it determines that any of the findings under paragraph (c) of this section is likely to be made following the hearing.

§ 284.148 Reporting requirements.

(a) Initial report. Within 30 days after commencing a sale pursuant to this subpart, an intrastate pipeline shall file with the appropriate state regulatory agency and with the Commission an initial report, under oath, signed by a senior official of the company, containing the following information:

(1) the exact legal name of the intrastate pipeline and the name, title and mailing address of the person or persons to whom communications regarding the sale pursuant to this subpart should be addressed;

(2) a description of the sale, including:

(i) the identity of the parties;

(ii) the dates of commencement and termination of the sale;

(iii) the estimated total and daily volumes of natural gas; and

(iv) the rate to be charged;

(3) the computation of the weighted average acquisition cost of natural gas under this subpart;

(4) the computation of any rate charged to recover the cost of gathering, treating and transporting the natural gas associated with the sale;

(5) The computation of adjustment, if any, under § 284.165(b), including:

(i) the basis for attributing certain additional acquisitions of natural gas to a sale pursuant to this subpart;

(ii) the identity of the existing contract under which the additional acquisitions are made and the price of natural gas purchased under the contract; and

(iii) each point of delivery of additional acquisitions of natural gas to the intrastate pipeline; and

(6) an affidavit that service pursuant to the sale is subject to interruption to the extent that natural gas subject to the sale under this subpart is required to enable the intrastate pipeline involved to provide adequate service to its customers at the time of the sale.

(b) Subsequent report. If any significant change occurs with respect to the information filed under paragraph (a) of this section, the intrastate pipeline shall file with the Commission and the appropriate state regulatory agency, under oath, appropriate amendments to its initial report, signed by a senior official of the company.

(c) Extension report. Not less than 90 days prior

to the expiration of a contract for the sale of natural gas pursuant to this subpart, an intrastate pipeline seeking to extend the sale beyond the initial two-year period or any period of extension shall file with the Commission and the appropriate state regulatory agency an extension report signed by a senior official of the company, under oath, stating:

(1) current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) the proposed terms of the extension.

(d) Final report. Within 30 days after the termination of any transportation arrangement or extension under this subpart, the interstate pipeline or local distribution company served by an interstate pipeline which purchased natural gas pursuant to this subpart shall file with the Commission and the appropriate state regulatory agency, under oath, a final report signed by a senior official of the company, stating:

(1) the actual volumes of natural gas purchased, on a daily and total basis;

(2) the actual rate charged and the total amount paid; and

(3) the points of delivery.

SUBPART D - ASSIGNMENT OF CONTRACTUAL RIGHTS TO RECEIVE SURPLUS NATURAL GAS

Sec.
284.161 Applicability.
284.162 General rule.
284.163 Special rule.
284.164 Terms and conditions
284.165 Filing requirements.

§ 284.161 Applicability.

This subpart implements section 312 of the NGPA and applies to assignment by any intrastate pipeline to any interstate pipeline or local distribution company of its contractual right to receive surplus natural gas.

§ 284.162 General rule.

(a) Except as provided in § 284.163, no assignment pursuant to this subpart may take place unless the Commission in its discretion authorizes by order an application for assignment filed in accordance with § 284.165(a) upon a determination that the assignment is consistent with the NGPA and this subpart and is necessary or appropriate in the public interest.

§ 284.163 Special rule.

An intrastate pipeline may assign, without compensation, to any interstate pipeline or local distribution company

all or any portion of its contractual right to receive surplus natural gas at any first sale without prior approval of the Commission, if:

(a) a state agency having regulatory jurisdiction over the intrastate pipeline which would be entitled to receive the natural gas in the absence of the assignment has determined that such natural gas exceeds the then current demands on such pipeline for natural gas;

(b) the price per MMBtu for the natural gas under the contract to be assigned does not and will not exceed the maximum lawful price per MMBtu prescribed under § 271.202; and

(c) the reports required under § 271.165(e) are filed with the Commission within 60 days of the commencement of deliveries under the assignment.

§ 284.164 Terms and conditions.

Upon approval under § 284.162 or compliance with § 284.163, an intrastate pipeline may assign, without compensation, to any interstate pipeline or local distribution company all or any portion of its contractual right to receive surplus natural gas at any first sale. Rates charged for any gathering, processing and transportation service in connection with an assignment under this sub-

part shall be computed in accordance with Subpart B of this part. The assignment shall be subject to any terms or conditions that the Commission determines by rule or order are appropriate and in the public interest.

(a) Upon receipt and review of reports required under § 284.165(e) for assignments without prior Commission approval, the Commission reserves the right to order termination of the assignment or compliance with any terms and conditions as it may determine by rule or order are appropriate and in the public interest.

§ 284.165 Filing requirements.

(a) An application for authorization of an assignment pursuant to this subpart shall be filed by the intrastate pipeline, under oath, with the Commission, and shall set forth the following information:

(1) a description of the proposed assignment, including:

(i) the identity of the parties;

(ii) the estimated volumes of natural gas, on a total and daily basis;

(iii) The price per MMBtu applicable to volumes to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(iv) the point of delivery;

(2) a copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(3) a copy of the determination by the state agency having regulatory jurisdiction over the intrastate pipeline that the quantity of natural gas to be assigned is in excess of the volume of natural gas available to the intrastate pipeline and needed to satisfy then current demands;

(4) a statement of the basis for assigning the right to receive particular supplies of natural gas, including an attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(5) the computation of any rates to be charged for gathering, processing or transportation services associated with the assigment.

(b) An interstate pipeline or local distribution company to which an intrastate pipeline would make an assignment under this subpart shall file, under oath, with the Commission a statement in support of the application under paragraph (a) that to the best of its knowledge, information and belief the price of the natural gas to

be assigned does not exceed the applicable maximum lawful price estabished under Part 271 of this chapter.

(c) An interstate pipeline to which an intrastate pipeline would make an assignment under this subpart shall file, under oath, with the Commission a statement in support of the application under paragraph (a) containing the following:

(1) the extent of curtailment, if any, anticipated to occur in the period in which the natural gas is to be delivered pursuant to the assignment;

(2) the effect which the price of the natural gas is expected to have on the interstate pipeline's average purchased gas cost in the period in which the natural gas is to be delivered pursuant to the assignment; and

(3) the reasons why in the opinion of the interstate pipeline the assigment should be authorized as necessary or appropriate in the public interest.

(d) The intrastate pipeline shall notify the appropriate state regulatory agency that the Commission has presumed that all revenues received in connection with gathering, processing or transporting the assigned natural gas have been or will be taken into account for purposes of establishing the intrastate pipeline's rates.

(e) Within 60 days of the commencement of deliveries under an assignment pursuant to § 284.163, the following information shall be filed, under oath, with the Commission:

(1) by the intrastate pipeline:

(i) a description of the proposed assignment, including:

(A) the identity of the parties;

(B) the estimated volumes of natural gas, on a total and daily basis;

(C) the price per MMBtu applicable to volumes to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(D) the point of delivery;

(ii) a copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(iii) a copy of the determination by the state agency having regulatory jurisdiction over the intrastate pipeline that the quantity of natural gas to be assigned is in excess of the volume of natural gas available to the intrastate pipeline and needed to satisfy then current demands;

(iv) a statement of the basis for assigning the right to receive particular supplies of natural gas, including an

attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(v) the computation of any rates to be charged for gathering, processing or transportation services associated with the assignment.

(2) by the interstate pipeline or local distribution company to which an intrastate pipeline is assigning the contract under this subpart shall file, under oath, with the Commission a statement in support of the assignment that to the best of its knowledge, information and belief the price of the natural gas to be assigned does not exceed the applicable maximum lawful price established under Part 271.202 of this chapter.

(3) by the interstate pipeline to which an intrastate pipeline would make an assignment under this subpart shall file, under oath, with the Commission a statement containing the following:

(i) the extent of curtailment, if any, anticipated to occur in the period in which the natural gas is to be delivered pursuant to the assignment;

(ii) the effect which the price of the natural gas is except to have on the interstate pipeline's average

purchased gas cost in the period in which the natural gas is to be delivered pursuant to the assignment; and

(iii) the reasons why in the opinion of the interstate pipeline the assignment is necessary or appropriate in the public interest.

(4) The intrastate pipeline shall notify the appropriate state regulatory agency that the Commission has presumed that all revenues received in connection with gathering, processing or transporting the assigned natural gas have been or will be taken into account for purposes of establishing the intrastate pipeline's rates.

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